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JERUSALEM'S RAMPAGING RABBIS • THE EDITORS: THE CASE AGAINST SCHOLARSHIP

THE NEW REPUBLIC

SEP 10 1987

The Bork-Rehnquist Poison by Renata Adler

Max Lerner on Bork's Intellectual History

Odd Bedfellows: Bork and Rose Bird

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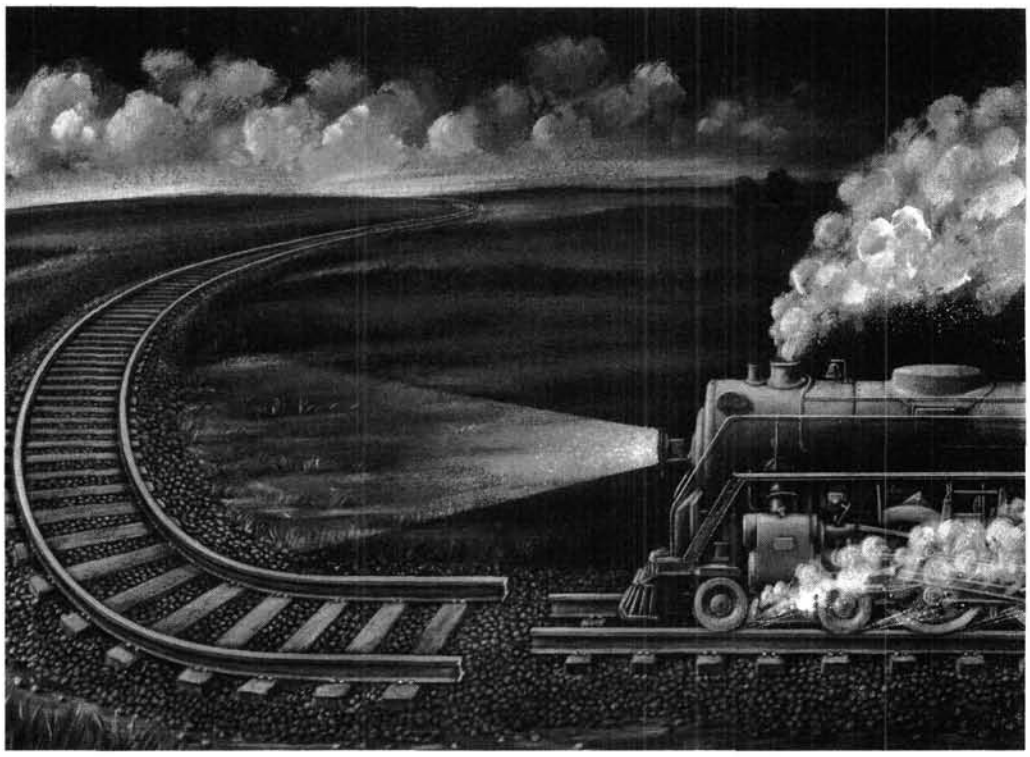
Issues of the Information Age:

The way beyond Babel.



Imagine trying to build a railroad system if every locomotive manufacturer used a different track gauge. Every local stretch of railroad had its own code of signals. And in order to ride a train, you needed to know the gauges and the signals and the switching procedures and the route and the conductor's odd pronunciation of the station names.

The business of moving and managing information is in a similar state today. Machines can't always talk to each other. Proprietary systems and networks abound, with suppliers often jockeying to make theirs the de facto standard. The enormous potential of the Information Age is being dissipated by incompatibility.

The solution, as we see it, is common standards which would allow electronic systems in one or many locations to work together. People will be informed and in control, while the systems exchange, process, and act on information automatically.

AT&T is working with national, international, and industry-wide organizations to set up comprehensive, international standards to be shared by everyone who uses and provides information technology. We think it's time for everyone in our industry to commit to developing firm, far-reaching standards. The goal: to provide our customers with maximum flexibility and utility. Then, they can decide how and with whom to work.

We foresee a time when the promise of the Information Age will be realized. People will participate in a worldwide Telecommunity through a vast, global network of networks, the merging of communications and computers. They'll be able to handle information in any form—conversation, data, images, text—as easily as they make a phone call today.

The science is here now. The technology is coming along rapidly. But only with compatibility will the barriers to Telecommunity recede.

Telecommunity is our goal. Technology is our means.℠

We're committed to leading the way.

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THE NEW REPUBLIC

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FROM WASHINGTON

BOOK 'EM

Is American literature doomed? You may have gotten that impression from a hysterical campaign being mounted by America's leading authors—not against illiteracy, or AIDS, or savage Reaganite slashes in Humanities Endowment grants, but against an obscure footnote in last year's tax reform. Writing in *Newsweek*, Kitty Kelley declares that "had this law been in effect when I was working on my first book, *The Glamour Spas*," that opus might never have been written. Sensing, perhaps, that this is not the strongest possible argument, she goes on to assert that Faulkner would never have written *The Sound and the Fury*, either.

Literati across the political spectrum—Edmund Morris to Arthur Miller—are united in this crusade to save our culture. William L. Shirer says that unless something is done, he will abandon his play-in-progress on Tolstoy and "try to scratch out a living doing something else." But David Halberstam says the real concern is for future generations: "I will survive, Bob Massie [*Nicholas and Alexander, Peter the Great*] will survive. But it is a lot harder for someone 30 years old who is coming behind us." The Authors Guild notes that the average writer makes a mere $7,900 a year.

Oh, dear. These literary types sure know how to work themselves into a frenzy. And they know how to stir up a fuss in the media. After all, journalists are writers, too—as are many members of Congress, a point the author brigade is fond of making, in a crass appeal to self-interest that would put less self-regarding lobbyists to shame. The question is whether one overwrought author in a thousand actually understands this issue they're so riled up about. Shall we calm down and talk this one through?

The footnote in question says that henceforth "creators" of books and similar literary properties must wait until a project starts generating income before they can deduct their expenses for that project. In the case of books and plays, that can be years. Even then, authors must spread the deductions over the period the project is paying off. Under the old rules, authors could deduct all their expenses right away, no matter when the payoff came, if ever.

The new rule sounds harsh, but in fact it is sound tax policy. Expenses for a book are like an investment. You don't get to deduct an investment when you make it. Instead, you subtract the amount you invested from your gross revenues, when they come in, to figure your net profit. A key idea of tax reform was to apply this principle across-the-board. President Reagan's 1981 "rapid depreciation" rules, which have littered the American landscape with empty office buildings and resulted in many corporations paying no taxes at all, were disastrous precisely because they violated this principle. Any time deductions are allowed ahead of the income they relate to, you have in effect created a tax subsidy.

"They are treating authors the way they treat a manufacturer of toasters," complains novelist William McPherson. That is correct. A fair tax system is one that treats everybody the same, even writers. You don't hear the toaster makers warning that Americans have browned their last Pop-tart.

The whining authors are on firmer ground when they complain that the new rule is a bookkeeping nightmare. They will have to segregate their expenses among different writing projects, and make impossible calculations about how long each one will take to pay off. They're also on solid ground in noting that lawyers and doctors are still allowed immediate deductions for most expenses, on the absurd metaphysical reasoning that a legal brief or doctor's prescription is a service whereas a poem, on a similar piece of paper, is a tangible product.

But the literati, perhaps without realizing it, are practicing three very familiar and tiresome ploys of special pleaders for government largess.

First, the big guys are hiding behind the little guys, a technique perfected by the "small" business lobby. Deductions ahead of the relevant income are only useful if you've got other income to deduct them against. Any writer who truly lives on $7,900, or even $10,000, pays no taxes anyway—a triumph of tax reform made possible precisely by eliminating other special breaks. Under current rules, up to $10,000 a year in necessary business equipment—paper, floppy disks, typewriter ribbons, copies of *Pride and Prejudice*—can be deducted right away, no questions asked. Clearly, then, this footnote is more important to Kitty Kelley and David Halberstam than to some struggling young poet in a garret.

Second, the authors are crying wolf—or, if you prefer, playing Chicken Little. Shocking as this may be to practitioners of literature, there are other industries—oil, farming, real estate, who knows? maybe even toasters—whose members also sincerely believe they are the linchpin of American civilization. Their Washington lobbyists argue with complete seriousness that life as we know it is over unless they get some particular bit of legislation.

Some writers may be inconvenienced, even unfairly inconvenienced, by the new tax rule. But the future of literature is not at stake. William L. Shirer will not be forced into bankruptcy. Future celebrities will not be denied the Kitty Kelley treatment. Any writer who would actually abandon the craft rather than consent to the indignity of deferring expense deductions must not have anything very important to say.

Third, it's a hoary device to complain about the complexity of a tax rule when your real objection is that it will cost you money. Farmers, for example, are allowed immediate write-offs for a wide variety of expenses on the grounds that these simple-hearted peasants are too busy milking the cow, and possibly too dim-witted, to handle accrual accounting. Huge farms with more computers than cows save millions in taxes this way.

Two simple rule changes would address the authors' legitimate gripes without betraying the principles of tax reform. One is to allow them an immediate deduction for some set amount of writing expenses, say $5,000 a year. This will solve the problem for all but the most prosperous writers. Second would be to set some standard, arbitrary period—say five years—over which they can write off long-range book expenses, rather than making them guess. Obviously the same rules should apply to doctors and lawyers as well.

Now, boys and girls, shall we get back to our word processors? Literature awaits.

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MAKING OMELETS WITHOUT BREAKING EGGS

It's impossible. But many things once thought impossible have become routine through technological advance. For example, a great amount of progress is being made in new technologies to burn coal cleanly.

Since 1973, air pollution resulting from coal combustion has fallen considerably, even as America has turned increasingly to coal for electric power and other important energy needs. However, existing clean coal technologies—stack gas scrubbing and coal washing—are limited in their ability to meet future clean air requirements, because of cost and applicability. *Emerging new coal-use techniques will expand the number of options available to coal users—current and future.*

Clean coal technology is hundreds of advances in science and engineering along with the creativity to put them together into workable, affordable systems. Clean coal technology will allow America to use more coal in the future. Cleanly and economically.

Today, there are advanced coal utilization schemes of several kinds. Some will allow older coal-fired boilers to be rebuilt as cleaner, more efficient units. Other advances apply to coal-fired units that will be built in the future. Clean coal technology is more than a concept. Most of these new technologies already have been proved in laboratories and in pilot plants. *Now they are proving themselves in full-scale demonstration programs, the last step toward full commercialization.*

Commercial demonstration projects are moving at an exciting pace. American industry is investing large sums of money. In many cases, state and federal funds supplement this effort. Not all clean coal projects will succeed. But many will. And these will form the basis for our next generation of coal-fired power plants and industrial boilers, both new units and rebuilt older ones.

This investment of money and time is a sound one. The payoff in future environmental quality and economic vitality is great. Consolidation Coal is very proud of its involvement in these coal use technologies for the future. To learn more about this subject, write for our free booklet, "A Clean Coal Technology Primer." It won't help you make omelets, but it will tell you about some new ideas that are being hatched.

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CORRESPONDENCE

SDS THROUGH THE YEARS

To the editors:
In Paul Berman's history of SDS ("Don't Follow the Leaders," August 10 & 17), he suggests a direct lineage from the Intercollegiate Socialist Society to the Students for a Democratic Society via the League for Industrial Democracy and the Student League for Industrial Democracy. In doing so he omits a significant development in the 1930s and '40s. In 1936 SDS was dissolved and joined with the National Student League (which had Communist associations) to form the American Student Union. It is my understanding that the Communists took control of the ASU and it finally ceased to exist. It was for this reason that LID had formed a new youth organization, to be called Students for a Democratic Society, and, learning from the past, had excluded Communists from membership.

Incidentally, Hubert Humphrey, whom SDSers of the '60s hated with a vengeance, had been a chapter chairman of SLID when has was a college student.

JOEL S. WEINBERG
South Harwick, Massachusetts

CONTESTING VALUES

To the editors:
Jeffrey L. Pasley's "Arabs Anonymous" (August 10 & 17) ends with the quote, "You know some of the Founding Fathers were very anti-Semitic," insinuating that I or the NAAA Foundation endorse such sentiments, when we condemn anti-Semitism in any form. The NAAA Foundation Essay Contest for University Students is designed to emphasize the importance of open debate in the development of Middle East policy. We clearly identified the NAAA Foundation in all contest materials and arranged for an independent awards process.

Pasley shrugs off the "troubling problems" we had in publicizing the contest as "Washington commonplace," without much regard for the chilling effect "well-connected and energetic" lobbies may have on policy debate. We see serious problems involving rights of free speech when it comes to U.S. Middle East policy and will continue to prompt more discussion about them.

DAVID SADD
Executive Director, The NAAA Foundation
Washington, D.C.

To the editors:
Over the years I have given more than 3,000 speeches—for fees—to Jewish, Catholic, Protestant, liberal, conservative, and other groups. No one ever assumed that I could be bought by a lecture fee until Jeffrey Pasley and TNR discovered that I am to speak at a function sponsored by Arab-Americans. I chose to speak at the NAAA Foundation contest precisely because to have said no would have been to knuckle under in advance to scurrilous attempts at intimidation of the sort found in this article. This group booked me under the requirements that all others must meet. It will get a speech that reflects my views, and mine alone. The audience will surely hear me say that this article proves the need to explore the question of whether Americans can have a free and frank dialogue about the Middle East.

CARL T. ROWAN
Washington, D.C.

To the editors:
I am always suspicious of the word "well-known" when used in argument or debate. Jeffrey Pasley uses it as an excuse for not proving a charge when he writes that I am "a well-known critic of American aid to Israel." Though I have frequently complained of Israel's use of American aid—cluster bombs, the invasion of Lebanon, settlements on the West Bank—I have always been and still am in general support of aid to Israel.

TOM BRADEN
Chevy Chase, Maryland

PHILIPPINES' CLEAN SWEEP

To the editors:
Unlike Max Singer ("Unclean Elections," August 3), we were in the Philippines for the May 11 legislative elections, the 1987 constitutional plebiscite, and the 1986 presidential election as observers sponsored by the National Democratic Institute. We found one notable difference between the 1986 and 1987 elections—the absence of violence and intimidation at polling sites in May. Poll-watchers from all parties and from the National Citizens Movement for Free Elections (NAMFREL) were at each polling site we visited.

Mr. Singer neglects to mention whether evidence of massive fraud has been presented to the Commission on Elections, or NAMFREL's conclusion that the 1987 elections were credible except in 12 areas. He apparently relied exclusively on a report by the Philippine opposition, many of whose conclusions are based on inaccurate statistics (e.g., the figure establishing that "candidates received well over 100 percent of the votes" is based on a NAMFREL figure that NAMFREL stated publicly was inaccurate). The elections did suffer from administrative snafus. But Aquino's popularity, not fraud, explains the overwhelming victory achieved by her supporters.

LARRY GARBER
ELAINE SHOCAS
Washington, D.C.

Max Singer replies:
When the legislature opened on July 27, months after the May 11 election, the Commission on Elections still had not declared who was elected to the last two Senate seats. If not a fiasco, this is at least a less than complete success. I did not rely solely on the report of the opposition. There were serious irregularities in the May election, including a number I did not mention. What is uncertain is whether cheating was so extensive that the commitment to the electoral process would be better served by declaring a failure of election and holding new ones. It is a mistake to conceal facts about the election or abuses of the Aquino administration—however much one wants her to succeed. Marcos is gone. Opposition to Aquino is not support for Marcos. The question now is whether the Aquino administration can do what is needed to take care of the Philippines.

'SHMITTA' FOR SECULARISTS

To the editors:
Martin Peretz's Jerusalem Diarist ("A Speech Not Given," July 6) describes the laws of *Shmitta*, the seventh sabbatical year of the land, a "long ignored biblical injunction," as "foolishness." But *Shmitta* can be appreciated even by a crass secu-

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THE NEW REPUBLIC
SEPTEMBER 14 & 21, 1987

THE CASE FOR BOOK BURNING

In 1960 a year at an average private college cost around $2,000. Now it costs around $15,000. As a percentage of family income, the cost of a private college education has doubled in 27 years. And it's getting worse: through the 1980s fees have way outpaced inflation.

In plain economic terms, it makes little sense. Colleges face declining enrollment and lower demand, as the baby boomers work their way out of the system. The bull stock market means bulging endowments and richer alumni, though it's not clear how tax reform will affect educational fund-raising. Meanwhile, job-hunting Ph.D.s have been in huge oversupply. If the market were operating properly, all this ought to mean that college is getting cheaper.

So where's the catch? The universities claim they're just catching up with rising costs, having fallen behind during the inflationary 1970s. Salaries and benefits of faculty and administrators still stand just below the comparative levels of 1970. The capital investment (for buildings, sports facilities, libraries) suspended ten years ago has been increased to compensate in the boom 1980s. And the huge expansions of past decades are now accelerating operating costs. Add to this Reagan's reduction in federal aid to students as well as tighter state budgets for student aid and it's easy to see why colleges have been passing their costs on to parents.

But what are students getting for their parents' money? One answer is: a declining proportion of time spent on teaching the fundamentals of a liberal education. The academic industry, as the recent Boyer Report on undergraduate education pointed out, is increasingly geared to a professionalized faculty and away from students. Faculty members, through a tenure system that prizes a journal article over evidence of good teaching, are under increasing pressure to keep pumping out the books. If you want a job, publication in the journals now counts more than vocation in the classroom. Even many smaller schools now insist on a press and a few periodicals to get on the academic map.

The costs cut two ways. First, at vast expense, libraries must keep track of the mounds of articles. Second, the energy needed to churn out the cutting wedges of ephemeral research means less time and effort devoted to teaching. Many regret this paper chase but remain resigned to it in order to get tenure. Others, often more gifted teachers, or more committed to a particular college than to a national "discipline," become disenchanted. Either way, students suffer.

This is not to argue against serious research. Without it, disciplines would stultify and decline. It's simply to point out that the journal junkies, and not the researchers, are now in control. There are, for example, some 142 periodicals now available in the United States on the subject of sociology. No one's arguing against a variety of journals to spread ideas within a discipline. But 142? No doubt the *American Journal of Sociology* has a different take than the *American Sociological Review*, but what with *Current Sociology*, *Contemporary Sociology*, or *Sociology*, the nuances must be wearing a little thin. Add to them the *Sociological Quarterly*, *Sociological Analysis*, *Sociological Review*, *Sociological Spectrum*, and, of course, the *Wisconsin Sociologist*, and it's no surprise that by the time we get to the *Insurgent Sociologist*, published by the University of Oregon, the nerves really begin to twitch. The latest issue of *Sociological Methods and Research* had articles on: "Estimation of Reliability and Stability in Single-Indicator Multiple-Wave Models," "Inter-group Comparisons of Latent Means across Waves," and "Misspecification, Asymptotic Stability, and Ordinal Variables in the Analysis of Panel Data." Anyone for creationism?

At a rough count, assuming only three-quarters of these journals get near the libraries of colleges, and that there are about five articles an issue, there are some 600 articles on sociology produced, purchased, and placed on the shelf every three months. That's 2,400 a year. Does *anybody* read them? And this massive output has coincided with a decline in student interest in the subject. Sociology also covers just a fraction of the journals industry. Political science, for example, has some 50 journals a year; Canadian literature has eight. (They include the temptingly titled *Quill and Quire*, and the unforgettable *Canadiana*.) There are five journals devoted to Nordic studies, including the *Holarctic Ecology Review*. There is a periodical now entirely devoted to helping you find other periodicals. And this at a time when many freshmen have trouble constructing grammatical sentences, and haven't heard of Plato or Madison.

The sciences have a better argument for the publishing mania, but the footnotes-culture of the arts is a symptom of the trend toward relativism and specialization in Ameri-

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ca's academy. Once unitary truths are scorned, there's no reason to distinguish between the important and the trivial in education. The result is all too often a retreat into irrelevance. It took Allan Bloom to bring the point home, in *The Closing of the American Mind*. The massive popularity of the book (and the widespread indifference serious academics have shown to it) testifies to the chord it has struck: the scholarly vocation has lost its core purpose in a fragmented overprofessionalism. The calling of the academic life to the risk of self-reflection, or even of a spiritual journey, is increasingly an anachronistic joke. It shouldn't be.

This is where the book burning comes in, but this time the periodicals go first. The point is not to curtail academic inquiry. Halting irrelevant production is the opposite of censorship. It's a way to save the purpose of undergraduate education. Nor is there any need, pace Torquemada, for "big government." Colleges should devise a voluntary code of practice for reform. Call the program: Pyre Education. Here are a few immodest proposals to start with.

(1) Get professors back into the classroom. A primary condition for tenure should be at least three years of undergraduate teaching, with students' assessments of their teachers as admissible evidence. Professors should be required to teach at least four courses a year, and all tenured faculty should be limited to one paid academic conference every two years. To prove we're not just prof-bashing, set a maximum salary for administrators at $10,000 less than the highest-paid faculty. This will discourage brain-drain stars from Europe, and the corporation mentality of many Ivy League administrations. Finally, set a limit of six years' funding for completion of a Ph.D. This would discourage universities from retaining

THE ZEITGEIST CHECKLIST

BY CHARLES PAUL FREUND

This Week		Last Week	Weeks on Chart
1.	THE HIGH AND THE FLIGHTY	2	4
2.	VOICE OF THE TURTLE	1	10
3.	THE ONE THAT GOT AWAY	—	1
4.	SEOUL STIRRING	*	2
5.	ROCKET'S RED INK	—	1
6.	GIANTS IN THE EARTH	—	1
7.	ABOVE THE FOLD	—	1
8.	FASTER FORWARD	—	1
9.	FINDERS KEEPERS	—	1
10.	LIFE'S A BITCH	—	1

Airlines. Irrational fear has set in, with some people postponing flying when it's raining, and others recalling rail's appeal. Anything suggesting airline deterioration is now exploited, no matter how technical or meaningless. PATCO, six years too late, has won its case. Press treatment of 255's surviving child is shameless Little Nellism.

The Gulf. You think the Gulf news is in those convoys? Well, Iran this week dropped the self-righteous hectoring and instead offered up Mohammed Jawad Larijani, its soft-spoken deputy foreign minister. Larijani seems to be Iran's Vladimir Posner; indeed, no totalistic government is now complete without a Posner. Their venue, "Nightline," has become the major front of "public diplomacy" directed at the U.S.

Charles Glass. Glass sure dropped below the news horizon fast. Nobody seems to believe he escaped, yet nobody wants to pose with him on the White House lawn, either. Former hostages (pace Dan Rather) are now political pariahs because their appearance begs the question of just how they got out. Coincidently, relations with Syria have warmed. Ah, the Middle East.

Third World. South Korea's labor unrest may be more evidence that the idea of the Third World is an anachronism (ZC, April 13). Pacific Rim producers have long been acting like First Worlders, importing the West's raw materials, then selling it finished products. Now, logically, the workers are acting like First Worlders, too. The exploitable Third World is shrinking to Bangladesh and thereabouts.

Space. The space program is creeping back; is the culture ready to debate its ends? A reconstituted NASA enjoys broad support based on the Romance of Space, a sense of historical mission, and a desire to overcome technological adversity. But serious doubts about the expense and purpose of the shuttle program date back decades. These questions, never fully aired, are on the table again. So far, this field has been shaped by cultural mythology.

N.Y. Giants. Why have four New York Giants come down with cancer in recent years? Is it because, as early stories remind everyone, their home field is atop a toxic dump? Oil spills come and go. Ozone depletion is still at the South Pole. Chernobyl was run by Party hacks. But football is football, and this angle is so weird and unexpected that environmentalism could well sneak back into the mainstream through it.

Asian Americans. Never mind this outside-in fascination with Asian American SAT scores. More interesting is the cultural stirring *inside* these long-reticent groups. You can program a festival with the new assimilationist films of Wayne Wang, Peter Wang, and now Steven Okazaki. Further, there are now competing slick magazines addressing Asian Americans as a whole, implying significant intra-group dynamics too.

Pay-per-view. Is it over already for the VCR? Not quite, but there's panic in the air. VCR sales have, inevitably, fallen, and so, ergo, has tape rental growth. But the big threat to tapes is "pay-per-view," a setup by which new movies are cablecast to paying viewers *before* the cassette is released. The VCR people thus find themselves where, just yesterday, they put Hollywood.

Buried treasure. This *Titanic* thing is wonderful: Americans get to feel nobly superior to the crass French. Meanwhile, high-tech U.S. gold diggers are off every coast, nobly stripping the *De Braak*, the *Atocha*, the *Whydah*, etc. Better yet, metal detectors are a growth industry, with amateurs combing the whole country for doubloons (and finding wheat pennies). Fred C. Dobbs, your day has come.

Spuds MacKenzie. It is best not to contemplate the success of the "Spuds MacKenzie" ads. A brand of beer is using this charmless and ugly dog as its shill; he's a "party animal" irresistible to women. How's he doing? Souvenir jobbers say Spuds paraphernalia has outstripped Oliver North junk. Let us now praise heroism essayists. By the way, Spuds is a female.

*Item resurfaces in the Zeitgeist after at least one week's absence.

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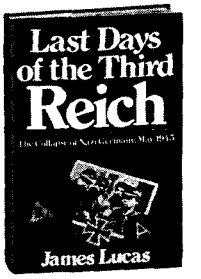

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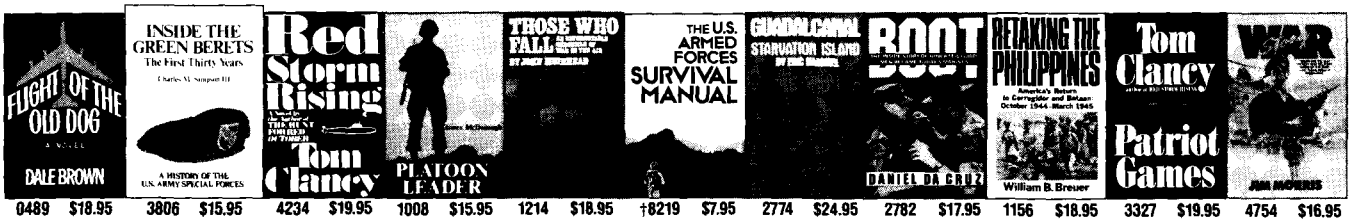

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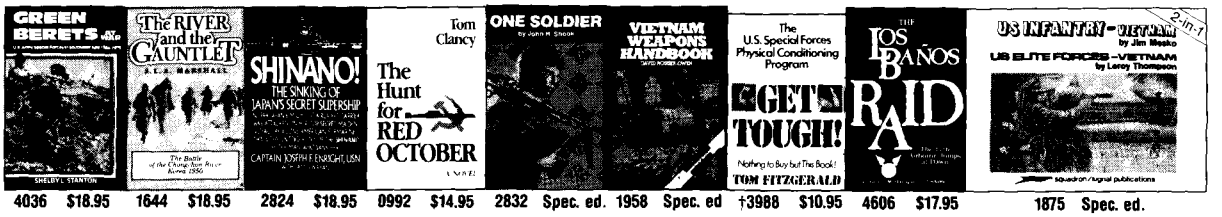

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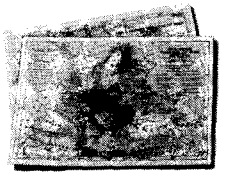

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graduate students as cheap teaching labor.

(2) Break the publishing cycle, by banning all publication of Ph.D. theses and limiting professors to one book every ten years. For a real stir, students could publish underground lists of teachers who've produced more than five books in the last ten years. (Kant was paid by the number of students who turned up for class. And his first book didn't appear until he was 57. It was *The Critique of Pure Reason*.) Libraries should limit the new books acquired to the number they bought annually 30 years ago, and buy only five periodicals a year for each department.

(3) Cut the backslapping and profspeak. All acknowledgments sections at the beginnings of books should be limited to six names or less, and forewords by other academics have to go. Footnotes should be kept to two a page, of no more than two lines each. For extra economy, an antijargon board should be set up. Among the ground rules, the word "dysfunction" should not appear more than three times on the same page; history books with the subtitle "Change and Continuity" should be sent back to the author, and the term "postmodern" should henceforth be shortened to "recent." If that doesn't get you more Barthes for the buck, nothing will.

NOTEBOOK

□ MAMA AND DADA AT THE AGRICULTURE DEPARTMENT: "Old Mama" is a "graying, stiff-jointed" 15-year-old cow kept as a pet by an Iowa farmer named Arlo Van Veldhuizen. According to a heartwarming AP story last month, farmer Van Veldhuizen "cut through red tape" at the Agriculture Department to save Old Mama from execution under a program designed to reduce surplus milk production by paying farmers to kill their cows. The alleged bureaucratic absurdity was to demand that Old Mama be sacrificed even though her milk-producing days are long past. Well, we see the absurdity somewhat differently. First of all, if Old Mama was too old to produce milk, why was she eligible for the milk-reduction program at all? Who designed this idiocy? Second, if farmer Van Veldhuizen is so attached to Old Mama, what forced him to sign her up for slaughter? The answer to that one's easy: he's getting $47,000 from the government to slaughter 27 cows, or $1,740 per cow (plus whatever the meat brings on the market). Presumably the government is still going to pay him $1,740 for Old Mama, though dead or alive she will have no effect on the milk surplus. Finally, of course, the $26 billion question: Why on earth is the government artificially raising the cost of farm products through price supports, then bribing farmers to curb the inevitable oversupply that results? Ponder that 'til the cows come home.

□ AIRPORT '87: "We are not trying to keep small airplanes out of any airspace," says Federal Aviation Administrator T. Allan McArtor, in response to criticism of proposed new rules restricting private aviation at large airports. Our question is: Why not? The FAA wants to require all planes flying near "restricted" airports to be in contact with air traffic controllers and to expand the number of restricted airports from 23 to 42. It also may require all planes flying near restricted airports to carry a device that transmits their location and altitude. Only half of all private planes now have the device. These reforms are all fine, but they remain tinged by the unnecessary solicitude for private planes that hobbles sensible air regulation. Safety aside, why should small planes carrying just a few people hog takeoff slots at crowded airports, and delay traffic in crowded air lanes, while hundreds of commercial passengers fume in waiting lounges and on the runway? Why should general aviation continue to be subsidized by the air traffic control system while commercial passengers pay more than their fair share through the ticket tax? Above all, why should people who have entrusted their flying safety to professionals be at the mercy of hordes of amateurs?

□ YOU READ IT HERE FIRST: Not to boast, but a NEW REPUBLIC article was the subject of a July 3 commentary on Soviet television. "Trotsky's Orphans" by Michael Massing (June 22) noted the large number of former Trotskyites in the Reagan administration. Dmitri Birukov, who appears to have mastered the TV commentator's technique of getting an easy piece out of summarizing a magazine article, reflected (in part) as follows:

> An article I read in the latest issue of the American journal THE NEW REPUBLIC struck me as rather curious, for it . . . spoke about something that is seldom seen in commentaries. We know of the heroic struggle by American communists who work under very difficult conditions. We know that there are two bourgeois parties in the USA. . . . But about the American social democrats or, as THE NEW REPUBLIC calls them, the American Trotskyites much less is known. The Trotskyite alignment within the social democratic party embodies, in its practical activities, the cold war ideology with a partiality towards sectarianism which is peculiar to the Trotskyites. . . . In their daily contacts, the Trotskyites call each other "comrade." At the same time they slam liberals who, according to their yardstick, are too soft on communism. . . . American Trotskyites faithfully follow the advice of their spiritual leader Trotsky and, just like all other Trotskyites, intrigue shamelessly and do not stop at anything in pursuit of their own goal.

□ DEEP DOO-DOO OR SHALLOW?

Iran Scandal Seen Hurting GOP and, Especially, Bush

—*Los Angeles Times*, August 12

ESCAPE FROM IRANSCAM: BUSH'S CAMPAIGN GETS A BOOST

—*Business Week*, August 17

(thanks to Bill Jones, La Habra, California)

□ THE SLEAZEBALL WATCH: Have the indictments of two former Reagan administration officials—Michael Deaver

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THE FOUR MOST COMMON MYTHS ABOUT JUNK BONDS.

In recent months, you've probably heard a lot about high yield or "junk" bonds. The question is, how much of what you hear can you really believe?

With so much rumor, half-truth, misconception, and pure fiction circulating these days, we thought it might help to look at the four most common myths about high yield bonds–and the facts that can put them to rest.

MYTH #1: THEY ARE A VERY RISKY INVESTMENT.

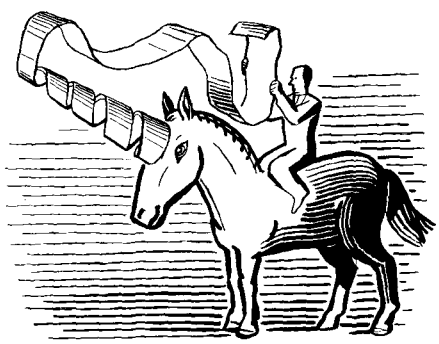
One naturally assumes that "junk" is worthless. But the facts tell a different story. Study after study has shown that high yield bonds are anything but junk.

Professor Edward Altman of New York University and Scott Nammacher found that from 1974 to 1985, the default rate on high yield bonds averaged just 1.53%, despite the two deepest recessions since World War II. (High yield bonds underwritten by Drexel Burnham had a "true" default rate of only 0.2% in 1986).

Professors Blume and Keim at the Wharton School of Business, studying the period from 1977-1986, found that the total risk of a well-diversified portfolio of high yield bonds was no greater than the risk for a portfolio of AAA-rated bonds, the 'safest' private debt available.

MYTH #2: THEY ARE THE MAJOR SOURCE OF FUNDS FUELING HOSTILE TAKEOVERS.

According to a 1987 report of the Investor Responsibility Research Center, both investment grade bonds and high yield bonds



together provided less than 10% of the financing for successful tender offers, whether friendly or hostile. In 1984 and 1985, bank loans supplied almost 80%.

Of the $128 billion public offerings of bonds and preferred stock rated less than investment grade issued during 1980-86, about 22% was used for merger and acquisition activities (future and friendly acquisitions, leveraged buyouts and refinancing acquisition debt). Less than 3% was used in hostile tender offers or unsolicited acquisitions.

MYTH #3: THEY ARE PRIMARILY USED TO FINANCE RISKY NEW VENTURES.

The average new issuer of high yield bonds today is a 36-year old company with $1.1 billion in assets, using the funds for internal growth and development.

Over 1200 companies have issued high yield securities since 1977. They're some of the fastest-growing, best-managed companies in America, including Charter Medical, Ramada Inns, Kinder-Care Learning Centers, Coca-Cola Bottling, Comdisco, Inc., Wickes Companies, and Banner Industries.

MYTH #4: THEY ARE USELESS TO THE ECONOMY.

About 22,000 corporations, or 95% of American businesses with sales of more than $25 million are considered non-investment grade. High yield bonds provide many of these companies with a cost-effective source of long-term, fixed-rate funds for growth, development, and job formation.

In the last three years, high yield issuers have increased their revenues by 32%, or nearly three times the rate of investment grade companies. During the same period, investment grade companies have actually lost jobs, while high yield issuers have increased employment by 24%.

The 10,000 people of Drexel Burnham are proud to be part of the high yield bond market and its ongoing contributions to our nation's economic growth.

CONTINUING THE DIALOGUE.

This has been a part of our continuing series on important, controversial and complex issues that challenge American competitiveness. For reprints of our entire series, write Frederick W. McCarthy, Drexel Burnham Lambert, 60 Broad Street, Room 1111, New York, New York, 10004.

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and Lyn Nofziger—cooled the influence-peddling that has swept through Washington during the Reagan years? Yes and no. Deaver's and Nofziger's businesses are in shambles. Some regard the way corporate clients have deserted these gentlemen in their desperate hour as disgracefully callous. But it seems fair enough to us, since all they were selling in the first place were their good names and stations in Washington life. Meanwhile, though, the business is not going begging. Former Senator John Tower has announced the formation of a "consulting" firm. His wonderfully euphemistic press release declared: "In this most uncertain political and economic climate, we intend to serve our clients by drawing upon our many years of varied experience in analyzing the issues, developing a responsive strategic plan, and bringing it to a successful conclusion." Republican Party Chairman Frank Fahrenkopf claims, "I do nothing" as a six-figure partner at the prominent firm of Hogan and Hartson, but Evans and Novak report that he got Toshiba in to see the late commerce secretary, Malcolm Baldrige, in a trade dispute. "I did not argue. . . . All I did was arrange it," Fahrenkopf protested, in the traditional door-opener's apologia. And *Legal Times* reports that Toshiba has hired a whole posse of prominent Washingtonians to help it recover from the scandal of selling vital defense technology to the Russians. According to a lobbyist registration form, former Democratic congressman James Jones and all-purpose Republican *consiglière* Leonard Garment are billing Toshiba at "regular hourly rates anticipated to be in excess of $500."

□ BACK TO SCHOOL: This is a combined issue. TNR will not publish next week so that the editors can sharpen their pencils.

The Biblical Scholastic Aptitude Test.

BSAT

Even as televangelists begin to fall upon hard times, the fundamentalist influence in America remains on the upsurge. Part of the movement's resiliency lies in its burgeoning network of centers of higher education.

And, as biblically oriented universities continue to offer an alternative to secular liberal arts colleges, it's just common sense that an appropriate standard by which to measure a student's aptitude would develop. So get those number two pencils ready—it's time to take the Rev. Dan Halberstein's Biblical Scholastic Aptitude Test.

I. Math

1. Nehemiah 7:12
-Nahum 4:3

a) Micah 3:9; b) Obadiah 6:69; c) Isaiah 66:9; d) Numbers 11:15.

2. To feed 5,000 people sitting in companies of 50, Jesus used two fish and five loaves of bread; in the end, 12 baskets of broken bread were leftover. What is the smallest crowd that Jesus could feed and leave no leftovers? a) 7,000, using three fish and five loaves; b) 10,000, using three fish and 15 loaves; c) 144,000, using eight fish and 40 loaves; d) 144,000, using the 12 baskets previously left over.

3. Complete the sequence: 1 Samuel, 2 Samuel, 1 Kings, 2 Kings, 1 Chronicles, _____.

II. Economics

1. In what book of the New Testament is the Beatrice Corporation explained? The Old Testament?

2. The European Economic Community (The Common Market) has been one of the economic building blocks of the postwar world. It is also reminiscent of: a) The Fiery Chariot; b) The Whore of Babylon; c) The Beast; d) Jacob's Ladder.

3. In today's economy, which would be worth more, five golden tumors or five golden mice? a) Five golden tumors; b) Five golden mice; c) Their value would vary with the local market; d) It is irrelevant, as the modern demand for both tumors and mice made of precious metals is virtually nil.

III. Science

1. God:Sun:
a) Creator:Creation; b) Good:Soon; c) Godot:Sunoco.

2. In today's terminology, we would call Demonic Possession: a) A high-temperature superconductor; b) a hostile takeover; c) a labor-saving device.

3. The difference between Creationism and Evolution is: a) Evolution has no tax-deductible fund, and does not accept postdated checks; b) Creationism can be called a theory, because somebody believes in it, whereas Evolution cannot be called a religion, because nobody will picket for it; c) Evolution can only be called a science in that it doesn't have a high enough Nielsen rating to be called a religion.

IV. Spacial Relations

(Mandatory for teleclerical courses of study)

Maneuver diagram (a) through diagram (b)

(a) (b)

V. Essay

Which is more important, life after death, or life before birth? Explain.

DAN HALBERSTEIN

Dan Halberstein writes for THE NEW REPUBLIC and *Roll Call*.

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In the Gulf and elsewhere . . .

PERSEVERANCE PAYS

WHAT FOLLOWS isn't an argument for stifling democratic debate or driving off cliffs to maintain American foreign policy credibility, but it is something for Congress and presidential candidates (especially Democrats) to think about. Again and again—in Europe, the Middle East, Central America, and now the Persian Gulf—the United States makes both allies and adversaries uncertain whether we will stay a course, and that uncertainty makes our course all the more difficult and dangerous to stay. The opposite is also true: perseverance pays—and the dividends compound if we get a reputation for it.

In Europe Jimmy Carter's collapse under left-wing pressure on the neutron bomb issue encouraged the Soviet Union and European leftists to mount a massive campaign against U.S. deployment of Pershing IIs and cruise missiles. The Democratic Party, by committing itself to the nuclear freeze movement (*all* the 1984 candidates endorsed it), contributed to the uncertainty about U.S. resolve. Nevertheless, the Reagan administration did persevere, so did the European governments, and the result is an impending agreement that will remove 683 Soviet missiles now threatening Europe and Asia that the freeze would have left in place.

Though Reagan deserves credit for the INF success, he did his bit to make Europeans doubt U.S. consistency by almost agreeing at Reykjavik to give up all nuclear missiles. He stopped only to save his beloved SDI program.

In Central America, allies and adversaries cannot tell from fiscal year to fiscal year whether Congress will keep the *contras* alive. It's sometimes argued that the *contras* lack popular and regional support. But why should any Nicaraguan risk his life and liberty to oppose the Sandinistas, and why should a Costa Rican back the *contras*, if he fears U.S. support will evaporate? At the same time, the Sandinistas and their allies are encouraged to play politics in America—not make peace with their neighbors and their internal opposition—because they know that American resolve is anything but inexorable.

The problem is mainly with Congress, but not entirely: the Central American presidents agreed on the weak Arias peace plan because the administration sprang the Wright-Reagan plan on them without prior consultation, leading them to believe the United States was looking for a diplomatic way to end the *contra* war. And, too, the Reagan administration might have been able to build solid public support for the *contra* policy at home if it had really tried. Instead, it attempted to conduct its policy in secret.

Ultimately, the responsibility for conceiving policy, executing it, matching commitments with capabilities, judging the limits of popular will—and getting the credit or blame of history—rests with the executive branch. Vietnam and Lebanon were executive branch failures, and so was the handling of the Iran hostage situation during the Carter administration. Congress, the press, and the public get used to being nervous about foreign involvements because their presidents so persistently foul them up. But their nervousness also emboldens adversaries and dispirits allies, making it more difficult for the executive to succeed the next time.

ALL OF THESE patterns are at work in the Gulf. In conception and early execution, the U.S. reflagging and escort operation has been characteristically messy. The administration has been unclear in public, and probably in its own mind, about what it is doing. All of the Democratic presidential candidates (except for Senator Albert Gore) have been opposed to the operation, Congress has been nervous, the press has looked for (and sometimes hyped) every vulnerability, and Iran—having expelled the Marines from Lebanon—has been encouraged to use threats, mines, and terrorism to scare the United States out of the Gulf.

America's moderate Arab allies, like our allies in Central America, are anxious not to be too closely identified with us because we might bug out and leave them to face Iran alone. Even Israelis say they fear the United States will pull out at the first sign of real trouble, though they are contributing to America's problems by undercutting efforts to sell weapons to the Arabs and by demanding that the Arabs own up to aid they are giving the United States. And yet the administration is persevering, and it is paying off—so far.

"There's no question that this is much more than we ever bargained for," said a State Department official. In March the administration anticipated that reflagging 11 Kuwaiti tankers would be a low-profile activity requiring no additions to the four U.S. naval vessels on patrol in the Gulf. Its plans were blown awry by the apparently mistaken Iraqi attack on the *USS Stark* on May 17. Now there are 40 U.S. ships in and around the Gulf, the operation is a daily front-page story, and even though the escort service has just started, members of Congress and officials at the Pentagon are fretting about whether it will ever end.

To justify the operation, President Reagan said it was to prevent a repetition of 1979 gas lines, but actually the world's oil supplies were not immediately threatened. It was claimed we were keeping international sea lanes open, but that seemed hollow because Kuwait's ally, Iraq, actually had been a greater threat to shipping than Iran. Some Reagan aides admitted the operation was meant to repair the diplomatic damage inflicted by arms sales to Iran, but that was never official. The foremost factor seemed to be the threat of Soviet inroads in the Gulf, though the U.S. operation actually provided an opening for the Soviets to try new approaches to Iran. And lately, administration officials have said we are trying to "contain" the Khomeini revolution, though that task would seem to require a strategy larger than merely escorting 11 Kuwaiti tankers.

To add to the mess, the administration found it lacked minesweepers to clear the Gulf, and the first tanker to arrive was hit. Instead of being deterred from mischief, the Iranians seemed to step it up by planting mines, provoking

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a bloody riot in Mecca, and openly threatening the Saudi regime. At first no European ally was willing to help us protect the Gulf, and even the local Arab beneficiaries seemed lukewarm.

But suddenly all of this seems to be changing. British and French minesweepers have arrived. The British are willing to reflag an additional tanker. The United States has pushed through a U.N. Security Council resolution calling for a cease-fire, which the Iraqis are observing at sea, giving the Iranians an incentive to avoid attacks on the United States. Even though the Soviets are talking with Iran about closer economic cooperation, they've done that before without results; Iran seems to be playing one Satan off against another. The price of oil has gone back down. The Saudis disclosed that the Mecca attack was not unusual; last year Iranian pilgrims were caught carrying in 200 pounds of plastique to give to the Iranian Embassy.

On close examination (by Representative Les Aspin of Wisconsin) it develops that Iran's pyrotechnic rhetoric about going to war with the United States proves to be carefully couched. A typical Rafsanjani sermon gets quoted in the press as a promise that Iran will sow mines like seed and make the Gulf red with blood. Actually, Aspin pointed out, Rafsanjani has been saying that "if the United States fires one bullet . . ." or "if the superpowers conspire to back Iran into a corner . . ." then dire consequences will follow. As it happens, the Iranians have not directly hit one U.S. vessel, but instead have toned down their rhetoric and have even begun removing mines from the Gulf.

FAWN HALL AMONG THE ANTINOMIANS

"And I can type," she boldly said
With a toss of her carefully tousled locks.
"Smuggle papers and run the Xerox."
"And I know how and what to shred."
"For I am an Antinomian."

She never turned brave Ollie's head
For he honored his oaths, he said,
Unless directed by some authority
Which gave lying a higher priority,
Sustained, as he was by the Fifth and immunity
And basic Antinomian impunity.

Admirable, Admiral John Poindexter
Came with his lawyer, his pipe,
And his clerical wife.
Certain he knew what the President thought
He wrought a deniable, plausible plot
Never thinking that he'd be caught
In his Antinomian coup d'état.

EUGENE J. MCCARTHY

Eugene J. McCarthy writes frequently for THE NEW REPUBLIC.

In a series of speeches to Congress, Aspin said in several contexts that "the Iranians are not foolish and respect firmness, something they have not seen out of Washington." A report of the House Armed Services Committee, which Aspin chairs, also concluded that the administration did not think through its policy ahead of time. Yet, "to have reneged on the agreement with the Kuwaitis . . . could have had a disastrous effect on Arab perceptions of U.S. reliability. On balance, the negatives stemming from a refusal to reflag appear to exceed those from the reflagging itself."

On August 24 Democratic Representative Stephen Solarz, a key member of the House Foreign Affairs Committee, declared that the U.S. naval presence has "averted the downward slide of American credibility in the region. It is warmly welcomed and strongly supported" by the states in the region. Solarz said President Reagan should submit the operation for approval of Congress under the War Powers Act, and he would win endorsement "by a large margin." That's now, however, after Solarz, Aspin, and numerous other legislators have been to the region and after nothing terrible has happened. Had the War Powers Act been invoked after the *Stark* was attacked, chances are the United States would not have demonstrated firmness at all.

THE VIRTUES of resolve have been demonstrated elsewhere in the Mideast lately—with Syria. The United States recalled its ambassador and the British severed relations after the Syrians helped plot the bombing of an El Al plane last year. As a result—and also, probably, because of economic hardships and preoccupation with Lebanon—the Syrians have desisted from terrorist involvement for a year, replaced their intelligence chiefs, and expelled Abu Nidal's headquarters from the country. In return, they got a visit from U.N. Ambassador Vernon Walters, and the regular U.S. ambassador, William Eagleton, is being returned. The Syrians have used this cozying by the United States as leverage on the Soviets, and have been rewarded with a previously delayed shipment of MiG-29s.

Pitting the superpowers against each other is a game that others can play as well. The Iranians are doing it. The Kuwaitis got the United States into the Gulf by going to the Soviets first, and lately Jordan's King Hussein has been threatening to buy MiG-29s if the United States won't sell him F-16s, which are blocked in Congress by opposition from the Israel lobby.

The lobby, led by the American Israel Public Affairs Committee, also is threatening to hold up F-15 aircraft and Maverick air-to-ground missiles for Saudi Arabia even though Solarz said the degree of Saudi and Kuwaiti cooperation with U.S. Gulf operations has been impressive. There are multiple ironies at work here. Israeli officials and supportive lobbyists say they fear U.S. resolve in the Gulf will wilt if Iran stages a military or terrorist attack, and they charge that the Arabs are faithless allies. Yet they are weakening the U.S. position in the Gulf by blocking arms sales. The F-15s are replacements that the Saudis won approval for in 1978 and don't add to the operational Saudi

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Well, how about, for example, a little-known technique that's been around for years... and used only by what we call the "SuperInvestors"? You know, the guys who make their living at it. The fat cats. It's been one of their so called secrets until now. It's called, simply, The TED Spread.

And here's what it offers:

- It's easy to understand – almost anyone can do it.
- *You* decide the amount to put at risk (as low as $1000).
- You have the potential to double, or even triple your money – in *months*, not years.
- Takes 5 minutes of your time a day.
- Annualized returns of as much as 400% – and more – are possible.
- The opportunity usually occurs three, maybe four, times a year.

I know, I *know*. It sounds too good to be true.

Great Little Investments

But I *guarantee* that if you read on, you'll *surely change your mind* when you find out more about The TED Spread.

So... what's a TED Spread?

Well, let me back up just a little. For over a year now we've been researching into what we've come to call *The SuperInvestor Files*. And so far we've come up with fourteen great little investing numbers that your broker – if you have one – may not even know much about. And the first one we've put into plain English is The TED Spread.

Recipe for Success

The TED Spread is the first technique in the new series *The SuperInvestor Files*. How it works is explained in precise detail, in language that's easy to understand. *Nothing* is left to your imagination... you'll be shown exactly:

- *How* and *why* the strategy works
- *When* and *how* to implement it
- *How* to select a broker (or use your own)
- Exactly *how* to place your order
- *How* to monitor your investment
- *When* and *how* to take profits
- Commission costs...

in other words – *everything* you need to know, even if you've never invested before in your life!

Don't Take Gambles

The special characteristics of The TED Spread make it an almost perfect investment for the small investor or people who, though they may have money, don't want to take unnecessary gambles. Yet, with only a few exceptions, the full workings of this technique have remained part of the private reserve of the big-money SuperInvestors – until now.

Why? Because very few small or conservative investors have ever had the privilege to be *shown* exactly how and why the strategy works – even though implementing it is easy.

The Upside, The Downside.

The strategy is based on interest rates – but here's the beauty of it: You have the potential to make money when interest rates go up and sometimes when they go down. So as I've said already, with The TED Spread you have one of the few investments in the world featuring both limited and defined risk – *and* – virtually unlimited profit potential.

Here's an example of what I mean. (Don't worry if you don't understand it fully, it's all carefully explained in *The SuperInvestor Files*.) After you've learned about The TED Spread, let's say you decide to put up $1000 to secure a position in a spread at 100 points – here's what would happen as it moved to various levels:

Rises to:	Your profit is:
500 points	$10.000 (1,000% return!)
250 points	$ 3,750
150 points	$ 1,250

Bought at 100 points

Drops to:	Your loss is:
80 points	$ 500
40 points	$ 1,500

An investment in a TED Spread can produce this kind of profit – sometimes in only a few months – with a level of risk you can hold to $1,000 or less. Of course you can double or triple these numbers by opening more spreads.

Now, get this – The TED Spread has never – repeat, *never* – dropped as low as 40 points. It has, however, been as high as 500 points, and several times has reached 400 points!

Thus, The TED Spread risk is *very* limited... and the profit potential is virtually unlimited.

Now, if this short disclosure has intrigued you just a little, why not ask for a free look at the complete TED Spread File? After all, as one man told us, *The SuperInvestor Files* are "like getting ice cream in July"!

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force of 60 planes. Mavericks, approved by Congress in 1984, are needed to deter or combat an Iranian tank or ship attack. The administration argues that neither weapon would affect Israel's weapons superiority over the Arabs.

Yet the administration's ability to persuade Congress to approve the Saudi sale—and enhance the U.S. strategic position—is hampered by Arab refusal to allow public disclosure of what it is doing to help the United States with Gulf operations. Reportedly the Kuwaitis are allowing U.S. ships to use their ports for provisioning and fueling (the Soviets have to get vegetables from Ethiopia and fuel from Aden). U.S. planes are allowed to land at Saudi airfields on an "as needed" basis, and there are agreements for hospital facilities and search-and-rescue operations. Saudi F-15s are flying protection for U.S. AWACS planes over the Gulf. But when the *Washington Post* wrote about some of these operations, they were immediately denied by the Saudis. Why? "Because," said an administration official, "they're scared that we are not going to stay and they'll be left alone to face the Iranians and their own Shiite minorities."

All this is new evidence that diplomacy is at least partly a confidence game, and lots of people are not confident in the United States. Often we are not confident of ourselves. Congress does not think the executive knows what it's doing, and the executive feels chained by Congress. In the Gulf, though, things seem to be getting better. The big test will come if Iraq decides to resume hitting Iranian oil export targets. Then Iran might be tempted to hit U.S. targets, or resort to terrorism. Will it do so? The answer depends on how confident Iran is of breaking American will.

MORTON M. KONDRACKE

The student-loan loophole.

REVENGE OF THE NERDS

GRADUATION IS over and the cap and gown are back at the rental agency. Supporting yourself in the "real world" is suddenly a pressing concern. The financial picture is even more threatening thanks to the student loans you took advantage of, which now have to be paid back. Life would be much easier without those monthly loan payments. Is there any way just to forget about them? There is. Go work for the government.

Student loans are like any other loans. A delinquent debtor receives a series of threatening "last warning" letters from the bank or lending agency. If this doesn't work, the bank asks a court to garnish the debtor's wages—requiring the employer to transfer part of the debtor's paycheck directly to the bank. But under the doctrine of "sovereign immunity," the government cannot be hauled into court unless it specifically gives its consent. In practice, that means that government employees' wages cannot be garnished for bad debts unless Congress specifically passes a statute authorizing it. Surprisingly, although members of Congress have occasionally introduced such bills, none has ever passed into law.

This legislative delinquency is especially absurd since student loans are generally guaranteed by the federal government, which bears the cost when borrowers don't pay up. In effect, "sovereign immunity" is preventing the government from collecting money owed to it by its own employees.

The student loan program (Guaranteed Student Loans, Federally Insured Student Loans, National Direct Student Loans) is big money. Student loans guaranteed by the U.S. government total almost $45 billion. Twelve percent of those who received loans have defaulted; 9.6 percent are "hard-core defaulters," persisting even after collection attempts. These are both unusually high default rates, compared with other bank loans. One reason, of course, is that banks have less incentive to pursue defaulters when the government has guaranteed repayment, including interest, in any event. (And if the lender recovers any part of the loan after the government has anted up, it only has to rebate 70 percent.) In all, overdue student loans now total $4.4 billion.

THE DEPARTMENT of Education under Secretary William Bennett has pursued loan collection very aggressively. In 1985 the department set up an "IRS Offset" program, which subtracts outstanding loan payments—sometimes over $20,000—from the debtor's income tax refunds. There are also plans to make defaulters pay for collection costs and to have loan delinquency hurt their credit ratings. Last year the department collected $229 million on defaulted loans the government had paid off, two-and-a-half times as much as it collected in 1984 or 1985 and four times as much as in 1982.

As for federal employees, the department claims to be creating files that will match employees' names with those of loan defaulters. Then the government can pay itself back directly by withholding part of the delinquent employee's salary—a Federal Employee Offset program. Of course, this means that the government will first have to pay off the banks and take over the loans itself. This additional and needless bureaucracy could be avoided if Congress would simply pass a law allowing the courts to collect loans from federal employees' wages.

You wonder why the government doesn't make these loans directly in the first place? Student loans are a wonderful boondoggle for banks, which get their normal profits from the loan, plus various fees, at no risk whatsoever to themselves. Cutting out the middleman would save money and red tape. The Education Department argues that it is not equipped to administer such a program. But a more likely explanation for this particular "privatization" is that direct government loans—even if cost-effective—would increase the apparent size of the federal budget deficit. At present, all that shows up on the gov-

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ernment's books are the outlays made to cover defaults and collection costs. If the government made the loans directly, that $45 billion lent to students would be part of the national debt. On the other side of the ledger, that same $45 billion in loans would be part of the "national assets," of course—and would have a better chance of actually being collected. But nobody pays any attention to the national assets.

FAREED ZAKARIA

THE PRESS

AREA MAN

TO TED KENNEDY he may be the man who will usher in a new Dark Age of back-alley abortions. To the kids at the Federalist Society he may be the last, best hope of judicial "interpretivism." To residents of my hometown, however, Robert H. Bork is that familiar figure of community journalism: the Area Man. When the *Pittsburgh Post-Gazette* published a *New York Times* interview with the nominee, one of our copy editors surgically inserted the local connection in the midsection of the article. ("The 60-year-old jurist, *who was born in Pittsburgh and attended high school in Ben Avon*, answered questions at his desk. . . .") To our credit, we have not belabored the Pittsburgh connection, which Bork severed when *Brown* v. *Board of Education* was still a glimmer in Thurgood Marshall's eye. Still, one of my colleagues did give us a readable piece about Bork's career as a high school journalist, debater, and Lothario. ("He wasn't one to run away from the opposite sex," a classmate confided.) Nothing so far about any boyhood musings on the Constitution, but perhaps the *Washington Post*—which I understand has been spelunking in Bork's childhood haunts—will discover that he espoused a restrictive view of the Equal Protection Clause over lemon Blennds at Espe's Drugstore.

The question of how—and how much—to "localize" a story like the Bork nomination is a delicate one. An editor's most important constituents, theoretically anyway, are his local readers. But, as anyone who ever has judged a journalism competition knows, newspapers in large cities are also written and edited with an eye toward the "profession," and it won't do to be too parochial. A less cynical justification for a certain amount of restraint in stories involving Area Men (and Area Women) is that editors should offer their readers a sense of proportion about their place in the country and the cosmos. The readers of the *Orange County* (California) *Register* would have been ill-served by a Watergate story headlined: "YORBA LINDA NATIVE IN IMPEACHMENT FLAP." The Pittsburgh newspapers played it about right on Bork, I think, and, to be fair, he had a more recent Pittsburgh connection than the bull sessions at Espe's in the 1940s. Before being named to the Court of Appeals for the D.C. Circuit, he had served briefly as the lawyer for a suburban Pittsburgh school district that was resisting a court-ordered integration plan. (Norman Lear, call your office.) On the other hand, it would have been a bit much if we had followed up on the tip that Oliver North's wife's sister lived on the fringes of our circulation area.

THIS TENSION between national and local news exists because, unlike Britain (and leaving aside the special case of *USA Today*), America has no national newspapers. Or so people like me protest—perhaps too much. In the days before *glasnost*, I was part of a delegation of American editorial writers that toured the Soviet Union. We had the bad luck of arriving a couple of weeks after the shooting down of KAL 007, so the schmoozing with our Soviet "counterparts" was predictably prickly. But the confrontation I remember most vividly wasn't over their insistence that the "target" had been a spy plane. What rankled us was the welcome one of our hosts extended to this distinguished group of "provincial"—i.e., non-Washington, non-New York—editors. Not since the Cuban missile crisis turned Adlai Stevenson from a mouse into a man have peace-minded Americans been so provoked by the Soviets.

But in our defense, I should note that the Soviets were adding a foreign insult to a familiar injury. Alleged provincialism is a sore subject for editorial writers. On most newspapers, with the exception of the Washington correspondent (who may spend most of his time tracking the doings of local congressmen), editorial writers are the only staffers to write regularly about national issues. For the record, most of us will insist that our real satisfaction comes from those hard-hitting local editorials that (sometimes anyway) effect real changes in a benighted city government and have the additional advantage of guaranteed feedback. Deep down, however, we also treasure the opportunity to hold forth on more cosmic matters, even if we aren't guaranteed Meg Greenfield's A-list readership.

Still, there are those dark nights of the soul when we wonder if it's worth it. It doesn't help that national publications (whoops, I said it) or the folks at "MacNeil/Lehrer" call us only when they want to tap into how the crisis of the day is perceived outside the Beltway—or, as our Soviet host would say, in the provinces. (You know the drill: "In Pittsburgh, they're more concerned about the Steelers than they are about the Iran-*contra* affair.") At the risk of seeming defensive, there is something atavistic about this attitude in the age of C-SPAN. Today's precocious Pittsburgh kids can gather at a drugstore and watch Bob Bork's confirmation hearings on the tube, and then come up with their own instant analysis. Inside the Global Beltway, everyone's an Area Man.

MICHAEL MCGOUGH

Michael McGough is editor of the editorial page of the *Pittsburgh Post-Gazette*.

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An intellectual journey.

BORK'S PROGRESS

I DON'T RECALL this much commotion over a Supreme Court justice since the battle over Hugo Black's Ku Klux Klan membership. In the midst of that battle (which served as a virtual confirmation hearing, months after the official one), I brashly predicted that despite his early foolishness, Black would be independent and forceful and would make one of our great justices. He did. Robert Bork has no personal shadow to dog him, as Black did, and their political philosophies are far removed, but their legal acumen and constitutional grasp put them in the same class as strongly innovative thinkers, who started young.

We have had no elaborate psycho-histories of judges, as we have of presidents, but for those whose lives have been studied the most (Marshall, Taney, Holmes, Brandeis, Black, Frankfurter), the best lead is in the ideas they pursued early in their careers. With Bork, there is a mixture of earnestness and awkwardly felt ambition in the early stages of his journey, as he struggled to understand the relation of law to society and power. His prime vision was an economic one, derived from a fateful encounter with the free market thinking of a great teacher at the University of Chicago, Aaron Director.

Politically Bork became a conservative, and philosophically a libertarian, with individual liberty as his foremost value. Yet like his economics, these were segmented prisms of color in a complex and questing mind. Intellectual excitement eluded him in his lucrative corporate legal practice in Chicago. So he left to teach antitrust law at Yale. There he worked out a treatise on the economic efficiencies of vertical and other combines, which was meant to topple much of the passionate liberal anti-monopoly tradition. Looking for a second course to teach, he chose constitutional law.

A joint seminar with Alexander Bickel proved critical in shaping the direction of his thinking and career. Bickel's own intellectual journey was very different. A refugee from Hitler, he had served as law clerk to Justice Felix Frankfurter and had been at the heart of the tumultuous Warren Court, which he later dissected with icy elegance in a series of books.

Bickel became Bork's seminar antagonist and in time his closest confidant and mentor. The students crowded to watch the rapier contests between them. Bickel displayed his clinical skills of diagnostic fine-tuning of the key decisions. (Bork described him as "a mixture of Edmund Burke and Fiddler on the Roof.") Bork stuck to his libertarianism and his free market philosophy, impossibly attempting to use them as an organizing frame for the unruly flux of constitutional decisions. In time Bickel wrestled Bork to the ground, leaving him to work out a philosophy much closer to Bickel's in the conservative tradition.

When Bickel died of cancer, he left behind a cluster of books on the Warren Court, whose liberal activism was the prime target of both thinkers. Bork carried on his legacy, but in his own characteristic way—more political and career-conscious, more hungry for recognition, more restless and tortured, more adventurous with ideas.

Bork's encounter, as solicitor general, with Richard Nixon and the "Saturday Night Massacre" probably taught him more than he wanted to know about politics. Though he somehow salvaged both his conscience and reputation, the whole period was a down time for him. His return to Yale, to face a hostile law school establishment, within the liberal judicial culture of the mid-'70s, further embittered him.

For an innovative thinker who has left his mental prints in the law reviews, the final test is judicial battle. The chance came when Ronald Reagan gave him a coveted seat on the D.C. Appeals Court. Bork must have viewed it as the perch for the final flight. But just as Gerald Ford had passed him over in filling William O. Douglas's seat, so Reagan passed him over for his first two Supreme Court vacancies. Everyone knew he was better equipped than the others, but he carried confirmation peril with him. With the third vacancy, the nomination finally came to a scarred veteran who, at 60, had almost given up hope.

"Wreak yourself upon life," Frankfurter had told Bickel, and he had passed it on to Bork, whom it fitted better. It should be read as an injunction from an older to a younger man to think boldly and assertively and leave an impress on the world. Bork has done it and drawn the lighting that comes with it. One of the shafts comes from Ronald Dworkin (in the *New York Review of Books*), who calls him a "radical" bent on breaking and overruling the continuity of the liberal legal tradition in the service of a reactionary far right. This is a kind of Chicken Little ("the sky is falling") polemics that will doubtless saturate the hearings. The fact is that there is now an "activist" judicial culture that is mostly liberal (in the '20s and early '30s the activists were conservatives) and a "judicial restraint" culture that is mostly conservative (where it was once liberal). Bork, at least in rhetoric, champions a restraint philosophy that will be politically "neutral."

WE NEED TO tread lightly here, where many bent on winning the battle of polemics tread too heavily. The necessary social upheavals of a nation are often tricky and always hard-won, but once in place, they are not easily dislodged. In any case, since the New Deal, and especially since the '60s, America has suffered not from languishing but from accelerating change, which has strained its cohesion. The dynamism of change in our time precludes the chain of imaginary Orwellian horrors that Senator Edward Kennedy conjures up when discussing the Bork nomination.

The liberal activists keep saying that the Court must "adapt" the constitutional text to a changing social reality.

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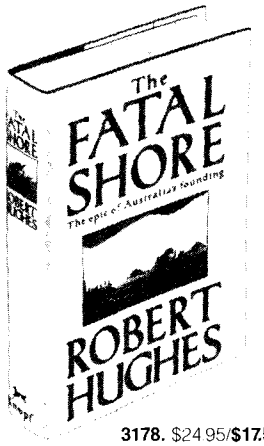

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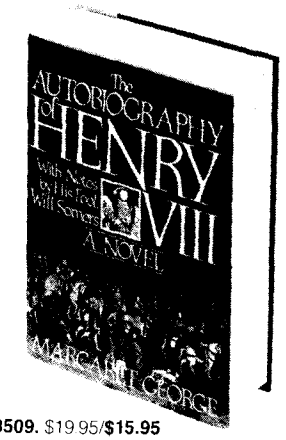

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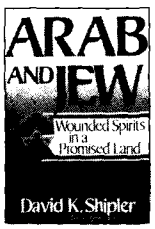

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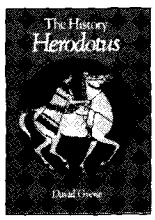

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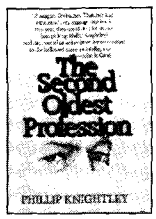

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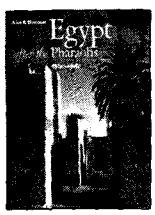

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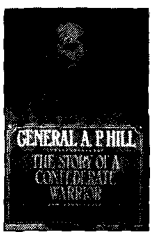

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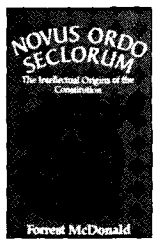

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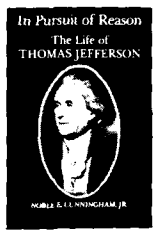

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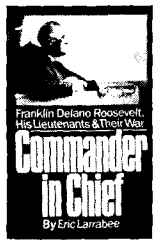

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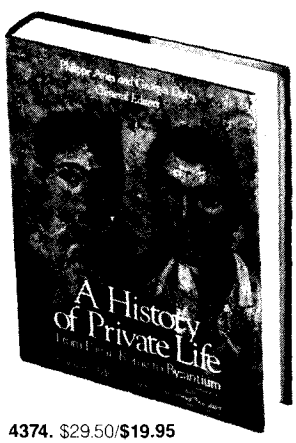

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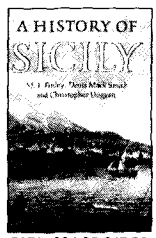

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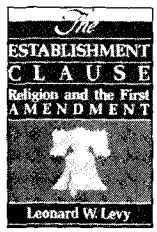

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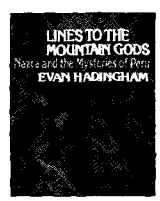

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It is the theme of Justice William F. Brennan, the brilliant holdover from the Warren Court. Anyone who doesn't "adapt" to change (in this litany) becomes "reactionary" and "archaic." Yet this actually minimizes the role of "result-minded" jurisprudence in social change. A Supreme Court decision that strains beyond constitutional language and precedent toward a particular social result actually helps construct the reality. You may start by construing the Constitution, but you end by the judicial construction of social reality, which may not be what majorities and legislatures wanted.

No Supreme Court justice, starting with John Marshall, has wholly avoided result-minded decision-making. It is in the nature of the human mind to think where it wants to go and to contrive ways of getting there. But if the Constitution is to mean anything, a judge must enact a self-denying ordinance, excluding his own social preferences from the process of his thinking. "Judicial restraint" is obviously hard to come by. Bickel and Bork both ended by sharing this judicial philosophy. Bickel found a model in Frankfurter who in turn had found it in Holmes. Bork owed little to Frankfurter, but found a model in Justice Hugo Black, whose prevailing passion was toward fidelity to the language of the Constitution and to its historical intent.

Black went at both with a literalness that gave him the quality of an American primitive. But he too could not refrain from result-mindedness. He interpreted Fifth Amendment freedoms with far more defensive strictness than he accorded to Fourth Amendment "searches and seizures." His version of the historical intent of the 14th Amendment has been discredited by recent scholarship. Yet Bork was right to attempt a close reading of the language and to make forays into historical intent in his own way. Whatever lapses judges are guilty of, and whatever rationalizations they use to cover them, it is the effort to cleave to the restraint doctrine that counts. As Chief Justice Harlan F. Stone put it, "The only restraint we have is our self-restraint."

THE FEAR that Bork will set a landslide in motion to engulf the "social issues" (gender, sexual and bedroom privacies, abortion, affirmative action, church-state relations, capital punishment) is strained on several counts. One is historical perspective. Court majorities come with presidential ones. A conservative activist Court ruled imperially to freeze the status quo under Republican presidents from the Civil War to the New Deal. FDR's personal élan and his electoral strength enabled him to populate the Court with a full roster of his own liberal activists, even after he failed to "pack" it. Bork comes at the end of Reagan's sway. His lone vote won't count for much when weighed against the huddle of appointments the next president will make to replace an aging Court. He may well be a Democrat—unless the party throws away its present advantage by an obstreperous battle that will deny Reagan his turn at the alternating rhythms of judicial selection. If that happens the Democrats will lose in 1988 and a new wave of conservative activists may make Bork look like a model of moderation.

Bork has reached a high clearing from which he can see where he has been and where he is going. He has a strong sense of a place in history and is more likely to achieve it by independent decisions than by repeating past positions where he reached too far afield. He may join in a few reversals, but that isn't what the historians will hail him for. Mostly the "social issues" have run their liberal course. Their expansion may be stopped, but a steep rollback would be too divisive.

THOSE WHO have studied Bork's decisions in the appeals court predict that very different issues will engage him, mostly concerning the great current revolutions (information, communication, biotechnics, money markets, and corporate takeovers) and the new questions of property and regulation that are being put to government and the courts by the administrative agencies, where public protection and entrepreneurial freedom clash. The earlier free market and libertarian Bork can move in boldly and make new law rather than reverse tired old law. Add the foreign policy arena, with its questions about presidential and congressional claims to war powers, covert operations, special prosecutors, and you get some of the issues that will await a new crop of judges, with Bork or without.

If the Democratic Senate is prudent, it will not politicize and polarize the process of confirming judges. This would imperil the judicial choices of their own future presidents and rub away some of the great symbolic power of the Constitution, which has been a force for social cohesion. If they are wise they will also temper the result-minded activist thrust that has all but leveled the boundaries between the judicial and political cultures of liberalism. The liberals can regain credibility best by mixing more judicial restraint with their activism.

As for Bork, he has higher stakes than the temporary reversals of a few symbolic precedents (which would end as a setback for the doctrine of judicial restraint). I suspect that he has long had in mind a role in remaking the reigning judicial culture and fashioning a counterculture at the law school and law clerk level. Justice Holmes, who said that he didn't want to "play God" in overruling reasonable legislative majorities, also told Harvard undergraduates in 1886 that "a man may live greatly" in the law. "There as well as elsewhere," he added, "he may wreak himself upon life . . . and may wear his heart out after the unattainable." It was the source of the phrase that Bork got from Frankfurter via Bickel. There are many of the young today with the same intellectual hungers that Bork had, waiting for the chance to make constitutional law a grand enterprise without making it an imperialist one.

MAX LERNER

Max Lerner, a syndicated columnist, has completed a forthcoming collection of his Supreme Court essays, *A Constitutional Reader 1931-1987.*

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A conundrum for liberals.

BORK AND BIRD

THE AMERICAN right has united around the nomination of Robert Bork and divided on the question of how to get him confirmed. For the zealots, the nomination is an ideological watershed, the last best hope to outlaw abortion, end affirmative action, and the like. For those seeking to win ten centrist senators to Bork's column, ideology is a dirty word and Bork himself could pass for Louis Brandeis on a cloudy day. "When you have a man of this caliber," says Senator Orrin Hatch of Utah, "I think it's just terrible to try and make an ideological battle out of it."

The contradictions of the pro-Bork campaign are grimly familiar to me, because they were my contradictions last year. I spent the better part of 1986 managing the independent campaign for the three embattled and ultimately doomed liberal justices on the California Supreme Court, most notably Chief Justice Rose Bird. From the first day of our campaign to the last, we were unable to resolve the question of whether we were defending an independent judiciary or a liberal one. By the time I was hired, the group had already proclaimed itself the Independent Citizens' Committee To Keep Politics Out Of The Court. By the time we printed our stationery, we had had sufficient second thoughts about the editorial in our name to place "Independent Citizens' Committee" in larger type than "To Keep Politics Out Of The Court"—but we could never bring ourselves to change the name altogether. The cult of the apolitical court persisted, and ultimately helped to destroy the most significant progressive court in the nation.

As with the campaign for Bork, our schizophrenia was apparent from the outset. At our opening press conference, campaign chairman and former California Governor Pat Brown (Jerry's father) finished a ringing declamation on keeping politics out of the courts, only to be asked how he could reconcile his position with the speech he had given some months earlier expressing dread at the prospect of William Rehnquist as chief justice. The governor, a figure of vast avuncular charm, thought it over for a suspense-filled ten seconds, then cogently summarized our position. "You know," he said, "I can't."

Rehnquist notwithstanding, our supporters within the California legal establishment argued that any evaluation of the political substance of the justices' decisions was altogether improper, that the court and its reconfirmation election had to be insulated from politics. Accordingly, in the piles of memos I plowed through on the court's behalf from civil liberties attorneys and defense counsels and members of liberal and left-wing bar associations, the one constitutional drafter invoked again and again was the sworn enemy of popular sovereignty, Alexander Hamilton. On the question of insulating the courts, America's one great quasi-royalist had become a beacon to a liberalism lost at sea. The left wing of the law had decided to come before the California electorate sounding like the right wing of the old Federalist Party.

As a tenet of democratic theory, our side's insistence on judging the judges by purely apolitical standards of competence and honesty was merely dubious. As an electoral strategy, it was plainly insane. In the summer of 1985 and again a year later, pollsters tested California voters' reactions to this thesis. By margins of 68 percent and 67 percent to 24 percent, voters agreed more with the proposition that they should vote judges out of office when their decisions had gone against the public interest than with the statement that the courts would no longer be free of public pressure if judges were rejected because of their decisions.

Moreover, 1986 polling by People for the American Way on the Rehnquist nomination and current CBS News/*New York Times* polling on Bork's show that the public's perspective on these issues does not change with the politics of the judicial nominee. Notwithstanding a shift from a question of direct popular sovereignty to one of senatorial power, respondents have consistently given primacy to substantive considerations such as "the nominee's position on major constitutional issues" and ensuring "a balanced point of view" on the Supreme Court.

To be sure, our polling revealed support for a rather scaled-down version of judicial independence, but as something quite distinct from any antimajoritarian sentiment. Indeed, respondents valued an independent judiciary because they considered it a more consistent defender of the general good over special interests than the more politicized legislative branch. Respondents were much more likely to vote for the justices when informed of decisions such as those upholding strict clean air standards against oil and gas companies or banning discrimination in rental housing against families with children—decisions the legislature had been unwilling to make. (So much for the notion that there is widespread opposition to judicial activism per se.)

THUS IT WOULD have been to our advantage to convert the election into a rather conventional political contest in which we showcased the court's record on civil cases while its critics continued their assault on its criminal record. For at least one of the justices, whether this would have averted defeat is something we shall never know, because Rose Bird chose to wage her own campaign—much the best funded of the four on the justices' behalf—almost entirely on the one theme that her polling and ours showed would not work: that of defending an independent judiciary without reference to the political substance of the court's record. Bird's ads called on voters simply to return "a court with backbone," and her spokesperson fatally elaborated the point three weeks before the voting by defending the court as "fundamentally antimajoritarian"—a breathtakingly novel approach in the electoral arena.

The independent campaign, by contrast, came to portray the court as the branch of government that consistently defended the individual against powerful institutions and

continued on page 24

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THEY ALL PINNED THEIR HOPES ON PEACE.

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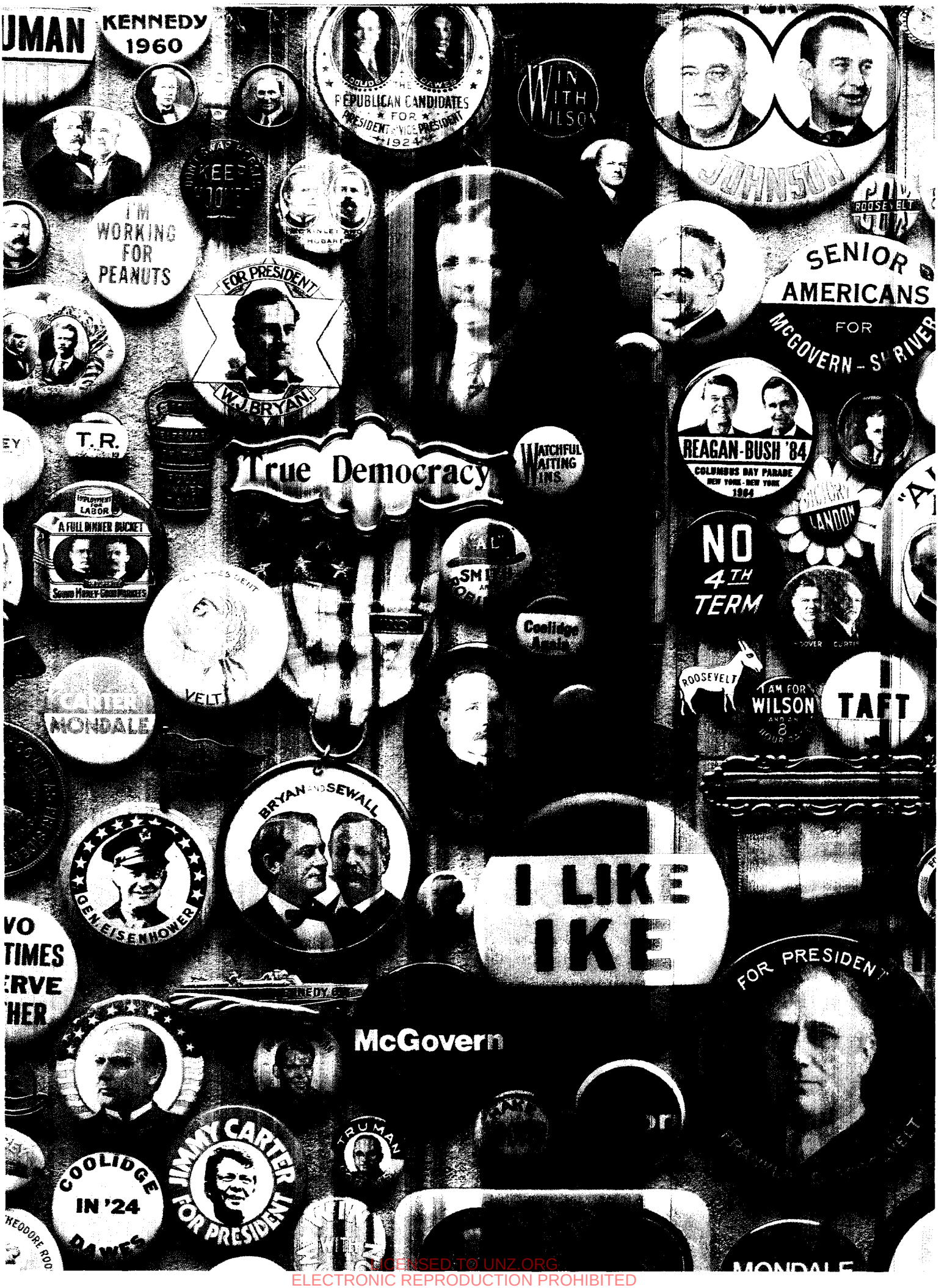

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the public interest against private greed. Yet we were never entirely able to abandon the court-that-stands-above-politics defense, and at times we presented both themes simultaneously. During one television interview my comments in defense of the court's civil record alternated with a law professor's warnings against evaluating judges by the bottom line of their decisions. Fortunately, the interviewer had a radically short attention span and failed to notice the conflict. The conflict outlived the election and carried straight through to this spring's confirmation hearings for Governor George Deukmejian's nominees to succeed the three ousted justices. On the morning that a leading member of our committee (representing the National Organization for Women) testified against one nominee, the *Los Angeles Times* carried a column by a San Francisco attorney who had been one of our foremost spokespersons, urging us to "refrain from trying to defeat the judges because of their conservative philosophy and adhere to the principle of judicial independence. . . ."

Our schizophrenia cannot be attributed entirely to the differing perspectives of attorneys and activists. We had simply strayed onto unfamiliar terrain. In America it is the custom to attack a court for practicing politics and to defend it by asserting that it is merely applying the proper precedent or statute. Instead, we were mounting a political defense of the court, and though both theory and polling reinforced the rightness of this course, it remained a strange-sounding defense even to us.

THE MORE conventional strategy of Robert Bork's defenders is to decry the unnatural injection of politics into the process of judicial confirmation, but it is a difficult case for some of them to make. Political consultant Bill Roberts, for example, led the campaign against Rose Bird. He recently announced the formation of a $2 million pro-Bork campaign featuring Gerald Ford and George Deukmejian. Asked to reconcile his current position that considerations of judicial philosophy are illegitimate in evaluating Bork with his insistence last year on evaluating Bird and Company by that very standard (the Pat Brown question), Roberts toughed it out by insisting that judges should still be evaluated by their opinions, but that only after Bork had written a number of Supreme Court decisions could adequate judgment be passed on him. Politics, Roberts seemed to be saying, was grounds for impeachment but not subject for consideration in the confirmation process, which has it exactly backward.

If the Bork nomination has had one salutary effect, it is to pry liberals forcibly from a myth that they have too often fallen back on: that of the court that stands outside politics. It has proved a serviceable myth to those justifying judicial decisions or appointments, a seductive myth for a nation that seeks the non-political solutions of science, technology, and law to social problems. Courts *are* removed from politics to a considerable degree. That is their nature and their purpose. However, in a democracy, it is not just legitimate but essential for the people to concern themselves with the judicial philosophy of the judges they appoint. As the Bork episode demonstrates, liberals insist otherwise at their peril.

HAROLD MEYERSON

Harold Meyerson is a Los Angeles-based political consultant and writer.

Jerusalem's religious wars.

RAMPAGING RABBIS

Jerusalem

The Jerusalem Theater is filled for its Saturday morning forum on current events, and the voice of one of the speakers grows faint as he leans back in his chair. "Talk into the flowers," comes the cry from the audience. The speaker leans forward and speaks into the large bouquet on the table, his voice reverberating clearly in the hall.

The burial of the microphone within a spray of gladioli is one of the ways the secular Jewish population copes with the Sabbath in Jerusalem. The ultra-Orthodox say that the use of a microphone is a violation of the Sabbath, and they would make a holy row if it were openly permitted in a public building. The solution is hidden in a vase.

Such mild subterfuges are regular Sabbath practice for the city's secular Jews—a majority that increasingly feels itself a beleaguered sect. Israel had been conceived by its founders as a Jewish state but not as a religious state, certainly not as a theocracy. Increasingly, the secular residents of the capital have had the uneasy feeling of being maneuvered back into the ghetto their forefathers had escaped from. To drive from north Jerusalem to central Jerusalem entails a wide swing around ultra-Orthodox neighborhoods whose streets are shut to traffic for the day by police barricades. On Friday afternoons, well before sunset, ultra-Orthodox vigilantes descend on the Mahne Yenuda marketplace to see to it that any stall owners still hawking vegetables shut down immediately. Over the last few months secular and Orthodox Jews have confronted each other on Friday nights outside movie theaters that remain open on the Sabbath. On August 24, 10,800 Orthodox demonstrators prayed at the Wailing Wall for an end to the showing of Friday-night films in the city.

It is true that there is no city in the world where one feels the tranquillity of the Sabbath, indeed, its holiness, as tangibly as in Jerusalem. Driving a few extra minutes to avoid the ultra-Orthodox neighborhoods and similar adjustments may be a small price to pay for this respite. But the situation is far worse than an accumulation of inconveniences. The inexorable growth and increasing militancy of the ultra-Orthodox *haredim* ("God fearers") pose a psychological and substantive threat to the secular way of life here, and even to that of the conventional Orthodox.

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The "Arab problem," which was Jerusalem's major demographic concern in the first years after the Six-Day War, has given way to the "*haredi* problem." As one academic puts it, "Israel has been developing two major poles. There is Tel Aviv, where you can't get a seat in a café at two o'clock on Shabbat morning, and Jerusalem, which increasingly gives the impression of a religious fortress." A journalist who moved to Tel Aviv after years of living in Jerusalem said he felt as if he had left a monastery.

LONG REGARDED as a quaint anachronism on the fringes of Jerusalem society, the *haredim* have become the most dynamic element in the city. They have always had strong convictions and special demands. Now they also have the numbers. According to city figures, *haredim* constitute 27 percent of the Jewish population of Jerusalem, and they are growing at more than twice the rate of the rest of the population. Even before the Six-Day War, the Mea Shearim quarter, where *haredim* first settled a century before, had burst its bounds. A new "Bible belt" emerged along the northern edge of the city, sufficiently isolated for the *haredi* Sabbath to be inviolate to outside intrusions. The Six-Day War shattered this tranquillity and created a new dynamic in which the *haredim* would come to play a central role. Jerusalem tripled in size with the annexation of Jordanian territory that came to be called East Jerusalem. To help establish these new boundaries, vast housing estates were built on the virtually unpopulated periphery.

In the early 1970s, violent *haredi* protests along the road to one of these new neighborhoods, Ramot, were a regular Saturday feature. The road passed just below the northern "bible belt" and impinged on its Sabbath peace. For many months, young *haredim* threw stones at cars and were dispersed by mounted police. In time the protesters confined themselves to shouting, and eventually this too died away. It was not, however, the silence of surrender. As the residents of Ramot watched in dismay from their hilltop in the late 1970s, black-clad residents from the inner city began to drive out on the Ramot Road in ever-increasing numbers—not to protest, but to move into the new neighborhood.

Reluctant at first to leave their self-made ghettos, the *haredim* came to realize that the new neighborhoods were the answer to their most urgent need: adequate housing. The Housing Ministry, which built these neighborhoods in the most massive residential undertaking Israel has known, made a conscious decision not to build separate quarters for the *haredim*. Rather they included small *haredim* subneighborhoods within secular areas. But this policy had predictable results. The *haredim* living in Ramot protested the plan to build a public swimming pool because the idea of men and women bathing together offended their sensibilities. After a long and bitter fight, the secular community won and the pool was built. But the war wasn't over.

As the district assigned to the *haredim* in Ramot filled up, they began buying apartments on adjoining streets. On Shmuel Hanavi Street on the edge of the Mea Shearim quarter, secular families now constitute a mere enclave within an expanding *haredi* tide. Although almost all the seculars light Sabbath candles, go to synagogue at least on the holidays, and follow a traditional Jewish lifestyle, they also drive their cars on the Sabbath. After repeatedly finding their tires slashed, the residents learned to park well away from the neighborhood on the Sabbath. They've also learned to lower their radio and television during the period—partly as a courtesy to their *haredi* neighbors, partly out of fear of *haredi* passers-by.

In recent years several apartments of seculars on the fringe of Mea Shearim have been firebombed or vandalized because of the residents' "Bohemian" lifestyle or the presence of single women. Scores of bus shelters were gutted over the last year by *haredi* arsonists protesting what they termed pornographic advertising. Even conventionally Orthodox Jews, including rabbis, have moved from neighborhoods like Bayit Vegan where the ultras pursue their uncompromising views. In extreme cases, *haredi* militants have threatened seculars with bodily harm or arson if they refuse to sell their apartments on the edge of the inner-city ghettos. Although this element of thuggery may be marginal to *haredi* society, it is a persistent feature. *Haredi* factions sometimes use violence upon each other in ideological or more worldly disputes. Mayor Teddy Kollek was hospitalized after being knocked down and beaten on a Mea Shearim street by a *haredi* mob during an election campaign.

The secular residents of Ramot feel themselves gravely threatened by the increase in the *haredi* population. The neighborhood was planned for 10,000 apartments, of which some 1,200 had been slated for *haredim*. As of this year, some 7,000 have been built and *haredim* occupy 1,300-1,500 according to the Housing Ministry. *Haredi* leaders say the figure is higher. Ten percent of the *haredi* families in Ramot have eight or more children. "Within a few years," says Rabbi Menahem Porush, head of the ultra-Orthodox Agudat Yisrael Party in Jerusalem, "Ramot will be 50 percent *haredi* or more."

In response, for the first time a secular community is attempting in an organized fashion to hold its ground and divert the seemingly organic growth of the *haredim*. "We're here and we're going to stay here," says Lou Gelehrter, an architect who is one of the leaders of the Ramot seculars. "This is a strong population and it's not going to run." The seculars are blocking rezoning that would permit the *haredim* to build extra synagogues, ritual baths, and yeshivoth in the non-*haredi* quarters of Ramot—facilities essential to *haredi* communal organization. At the same time, they are seeking to provide these areas with pools, tennis courts, horseback riding, and other facilities, not only as an attraction for seculars but as a turnoff for the *haredim*. And they are pressing the authorities to provide the *haredim* with alternative housing elsewhere to meet their needs.

The authorities, for their part, are divided on a critical issue: Should the *haredim* be related to as Jews or as anti-Zionists? Esoteric as this point may sound, it has delayed a solution to the problem and will ultimately affect the physical planning of Jerusalem and its metropolitan region. *Haredim* historically opposed the Zionist enterprise, regarding the creation of a Jewish state before the arrival of the

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Messiah as a desecration. After the state's founding, most *haredim* came to accept it, but conditionally. Agudat Yisrael agreed to send representatives to the Knesset but not to sit in the government. Most *haredi* men avoid full military service; those who enter the army do so only after years of yeshiva deferment allow them to serve in reserve auxiliary units instead of combat units. The *haredim* run an independent school system that takes no note of Israel's Independence Day and little of national affairs later than those related to in the Bible.

The problem is that the *haredim* are not just part of the *haredi*-secular demographic equation, but part of the politically more important Jewish-Arab equation. Should they, as Jews, be encouraged to live in Jerusalem to maintain the Jewish-Arab ratio at 7-to-3, or should they, as non-Zionists, be encouraged to live outside the city to leave room for Zionists—both secular and religious—so as to sustain the Arab-Zionist ratio? The municipality has adopted the former attitude—that the *haredim*, whatever their beliefs, constitute warm Jewish bodies who can maintain the Arab-Jewish ratio. With virtually no secular Jewish immigration at present, there's no other source to draw from. City officials have been urging that the *haredim* be directed to a new development to be constructed at Ras Amar in northeast Jerusalem. The Housing Ministry, however, wants the *haredi* overspill to be directed outside. It has begun the development of a satellite town at Betar a few miles southwest of Jerusalem, and designated it as an entirely *haredi* town. The problem remains unresolved.

Mayor Kollek and others have warned that on present trends, Jerusalem will have a non-Zionist majority of *haredim* and Arabs in a few years. This could happen by 2000, when even by conservative figures *haredim* are expected to constitute 18 percent of the overall city population (including Arabs) and Arabs are expected to make up 30 percent to 32 percent. It is quite possible to envisage a *haredi*-Arab coalition on the city council somewhere down the line, particularly since the Arabs are also religiously conservative.

The battle being waged between the seculars and the *haredim* at Ramot is part of a battle for Jerusalem's soul that is little less significant than the battle between the Jews and the Arabs 20 years ago for Jerusalem's body. The struggle is between ultras confident that the future is theirs and moderates, including the conventionally religious, who are increasingly concerned about their place in a holy city that grows ever holier. If Ramot breaks, it would be a severe blow to secular morale in the city and would encourage emigration from an ascetic capital increasingly cut off from the liberal spirit of the rest of the country. "The authorities have to decide what kind of Jerusalem they want," says Ramot activist Gelehrter, "a saintly city or a pluralistic city. *La patrie est en danger*. We must save Jerusalem."

ABRAHAM RABINOVICH

Abraham Rabinovich is a feature writer for the *Jerusalem Post* and the author of *The Battle for Jerusalem* (Jewish Publication Society).

The future of South Africa's largest corporation.

ANGLO-AMERICAN FACES LIFE

BY STEVEN MUFSON

THE ANGLO-AMERICAN Corporation dominates the economic life of South Africa. Thus the highly uncertain question of South Africa's future is inevitably a question about Anglo-American's future, too. Last month's unprecedented strike by a quarter-million black mineworkers—most of them employees of Anglo-American—raised that question in especially harrowing form.

But Anglo-American takes the longer view. Asked last winter how political turmoil, economic stagnation, and the prospect of black majority rule could affect this vast conglomerate, its chairman, Gavin W. H. Relly, bravely said, "South African history has always been bumpy. The company isn't inclined to twitch at this blip in the sweep of history." Yet rumblings are being felt, even at corporate headquarters, which was designed to be a cross between a bank and a cathedral. The outlawed African National Congress advocates nationalizing banks and mines and breaking up monopoly industries, a program recently endorsed by the country's largest black trade union federation. Even a moderate black government would feel pressure to alter the lopsided distribution of wealth in South Africa, where whites earn more than ten times as much as blacks and one company, Anglo, directly or indirectly, controls 80 percent of the value of the Johannesburg Stock Exchange.

Despite Relly's show of optimism, he is fashioning a political strategy as well as a financial one to ensure An-

Steven Mufson recently spent two years reporting from South Africa.

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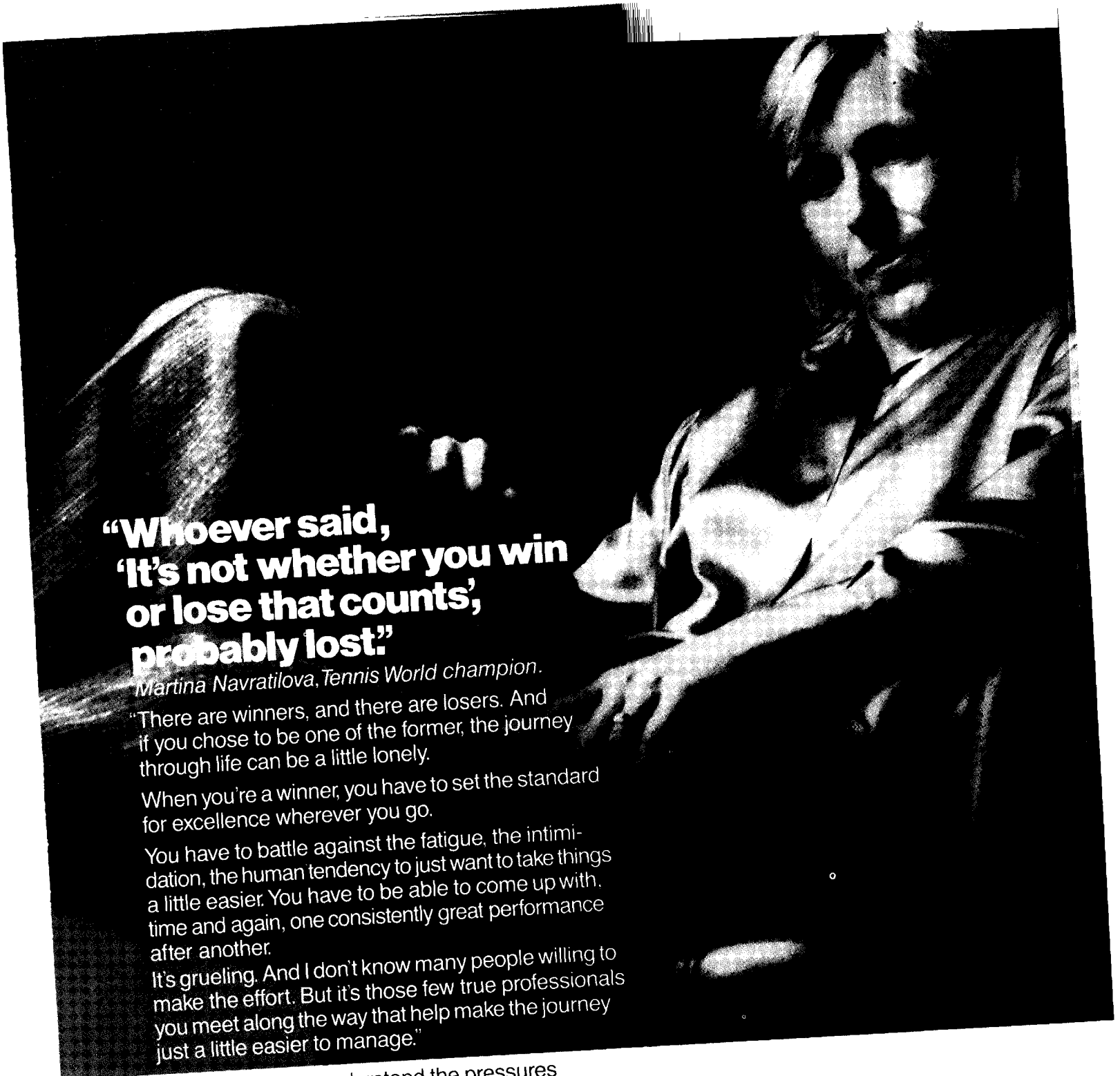
"Whoever said,
'It's not whether you win
or lose that counts',
probably lost."
Martina Navratilova, Tennis World champion.
"There are winners, and there are losers. And if you chose to be one of the former, the journey through life can be a little lonely.
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You have to battle against the fatigue, the intimidation, the human tendency to just want to take things a little easier. You have to be able to come up with, time and again, one consistently great performance after another.
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glo's survival. "There is a realization that the company can't survive in its present form," says one of Relly's aides. "The question is what does one want to preserve about the company." Anglo has a liberal image overseas because of former Chairman Harry Oppenheimer's one-time membership in the white Parliament opposition and his criticism of apartheid. But among black South Africans, Anglo is viewed as the architect of the world's most extensive migrant labor system, a company that for decades failed to use its economic muscle to oppose pass laws, job reservation for whites, and gross disparities in pay between whites and blacks. Ten years ago, according to Director Zacharius J. de Beer, the board of directors rarely discussed anything political. Now it addresses a political matter in almost every meeting. Anglo admits to some dire past mistakes, such as shutting down the liberal, money-losing paper, the *Rand Daily Mail*, and firing 15,000 workers in a wildcat strike.

In August 1985 Relly and six other white South African businessmen met with six leaders of the African National Congress in Zambia. The visit bestowed some respectability on the exiled group, most of whose leaders can't even be quoted in South Africa. Discussion that day inevitably turned to whether an ANC government would nationalize the Anglo-American giant. According to the private notes of one businessman, ANC executive committee member Thabo Mbeki said, "The boards of directors of three companies could not take decisions for the whole nation." He added ominously, "Any new government must have the economic power to transform the lives of the people by spreading the wealth." Relly naturally argued against nationalization, but he conceded in an interview that Anglo must take "giant chancy strides . . . to make the company more credible among blacks. We thought we were being tremendously progressive five to ten years ago, but it just wasn't progressive enough."

ANGLO'S SHEER SIZE makes it a political target. Its tentacles reach into virtually every sector of the economy, from gold and diamond mines to construction companies, breweries, banks, timber mills, electronics firms, steel manufacturers, life insurance firms, publishing, auto makers, and food processing plants. To rent space in downtown Johannesburg one must generally go through the company's property management unit. In the past three years as South Africa's economy faltered, Anglo's size relative to the rest of the economy has only grown bigger. Its local costs—paid in a weakened rand—have declined while its gold revenues—received in dollars—have risen. Last November the company acquired a 40.4 percent stake in Barclays National, South Africa's largest bank, from Barclays' London-based former parent. Barclays since picked up Citibank's business when it disinvested. Anglo and two of its affiliates swallowed the British Barclays' disinvestment without a burp.

The men who built this empire were Sir Ernest Oppenheimer, who founded the company in 1917, and his liberal-minded son Harry, who, though retired, still exerts his influence. The Oppenheimer family still controls the Anglo group of companies through an intricate web of ownership. Sir Ernest's stroke of genius was in constructing the airtight De Beers diamond cartel, which controls diamond sales everywhere from South Africa to Australia, from Zaire to the Soviet Union. He and his son also gambled on deep gold mines before prices supported such huge capital investment. Today those mines account for the bulk of South Africa's gold production—and handsome profits for Anglo.

THE WONDERS of this capitalist creation aren't shared by most black South Africans. "On the one hand, you have a capitalist society. On the other hand you have people with no capital at all and thus who aren't impressed by capitalist notions," says Chairman Relly. Unimpressed is putting it mildly. At the National Union of Mineworkers' last national congress, a huge banner hung from the ceiling with the words "SOCIALISM MEANS FREEDOM." NUM general secretary Cyril Ramaphosa announced that the union would back the nationalization of the mines. A fugitive leader of the United Democratic Front appeared to invoke "Comrade Lenin" and conflate "racist oppression and capitalist exploitation."

The ANC continues to endorse its 1955 Freedom Charter, which advocates that the banks, the mines, and monopoly industry be given "to the people as a whole." Pallo Jordan, a member of the ANC national executive, says: "When people talk about the continuation of free enterprise, they usually are talking about the continuation of white free enterprise. The state must intervene. The Freedom Charter might mean taking controlling interest [of a company] and leaving the rest in private hands, or it might mean taking over completely." Anglo hopes that the ANC will be more pragmatic if it ever comes to power. "We pin our faith in the Freedom Charter being 30 years old," says de Beer. "The world has turned against the doctrinaire brand of socialism that was popular then."

The company has dealt with black governments before and survived. It remains Zimbabwe's largest conglomerate, despite Prime Minister Robert Mugabe's avowed belief in "scientific socialism." Mugabe has decided that the technical and management expertise and financial muscle of Anglo are worth keeping around. Relations between the company and the government are good, says Gerald Carey-Smith, head of Anglo's operations there. "Mugabe believes the peasant should get a better chunk of the take, and that's most laudatory. I don't get upset by terms like 'comrade.' After all, you have to call people something, like 'monsieur' in France or 'old boy' in Britain."

In Zambia the company fared even better when President Kenneth Kaunda nationalized Anglo's copper interests. The Zambian government paid for its 51 percent stake in U.S. dollars without any restrictions. That money was used to start the Bermuda-based Minorco, which in the early 1980s was the largest foreign investor in the United States. In effect, Zambia facilitated the biggest single act of disinvestment the world has ever seen. And the timing couldn't have been better for Anglo. Zambia compensated

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Anglo when copper prices were near their peak, a settlement that sharply increased the country's debt burden. Now copper prices have slumped, Zambia is struggling, and Anglo's money is invested elsewhere.

BUT ANGLO cannot disinvest from South Africa. "We are a South African company and this is where we stay," says Relly. Moreover, Anglo's soaring earnings are mostly trapped inside South Africa by currency controls. Flush with rand, Anglo can buy the interests of foreign companies on the run—some, like Barclays, at bargain prices. It paid well below the market price for Barclays' shares. But, as one Anglo insider says, "The company is increasing its stake in a static or declining economy."

The prospect of a black government in South Africa poses more intractable problems for Anglo than dealing with black governments elsewhere in Africa. Most black South Africans strongly believe that big business has benefited from apartheid, especially the restrictions on black unions, which ended in 1979, and the system of migratory labor. Until April 1986 no black could be an official resident in an urban area. Even now the loss of his job could mean deportation to a remote so-called homeland, where his family remains while he works 50 weeks a year away from home. This system made black workers vulnerable to dismissal and insulated the company from disgruntled, fired workers. Companies were prohibited by law from allowing more than three percent of their work force to have their families with them. Though the impetus for the system came from the late Prime Minister Hendrik Verwoerd, blacks feel that business didn't do enough to resist. Big mining houses didn't even meet the meager three-percent quota.

Mineworker radicalism is based on these bitter experiences. Marcel Golding, assistant general secretary of the NUM, explains, "A black mineworker wakes up at 2 a.m. and it takes about two hours to get down the mine shaft. He must be at the rock face by 4 a.m. He works for eight hours in an 82-centimeter [32-inch] hole in a crouched position, with rock above his head that can cave in at any minute, watery conditions at his feet, and unbearable hot temperatures. All the while he is surrounded by a noise like the sound of a drill. Often a white supervisor will shout abuse and call him *kaffir* [a derogatory term for blacks derived from the Arabic word for non-believer]. At the end of the day . . . the black miner doesn't go back to his wife, like the white miners. He goes back to a hostel he shares with 20 other guys." That is, if he comes back at all. In 1986 more than 800 blacks died in mining accidents.

At a typical mine hostel near Witbank, east of Johannesburg, four workers occupy a single room, each with a tiny locker and a foam mattress on a bunk bed. "In summer it is bloody hot and in winter it is bloody cold," says Golding. Lucas Mnyehbezi, age 31, has worked at the mine for four years and earns $100 a month. He sends $50 a month home to his family, and most of the rest goes for beer at the company bar. Once a year he visits his wife and his five children. Between visits, he has acquired a girlfriend, who has moved in with him, defying company and government regulations.

Rather than crowding workers into company hostels, some of which are surrounded by barbed wire and guards, Anglo is considering handing out housing allowances and letting employees choose accommodations for themselves. Relly says he also may distribute shares to employees. "From the point of view of workers, if they are going to identify with the company, they probably have to have some take in the business. That would be the proper free market response to Marxist notions."

Anglo also is trying to promote blacks, though without much success. There is only one black on the company's board of directors, and for years he lived in the United States. The company started a cadet training scheme in 1979 for the best of South African black high school graduates. But of the first 12, only two have finished their courses and gone to work for the company. Interviews with numerous cadets reveal that even they feel alienated from the Anglo corporate culture and identify with struggling miners more than with management. "When they took us on a tour of the mines, we saw how the black miners were living. We talked to them. We experienced the noise and the mud and the water and the sense of imminent danger. Those are the people who deserve the money we were receiving to study," says Mafa Goci, one of the original trainees. "When you are at Anglo you are wearing a tie, eating nice food. You are somebody that you're not." Goci dropped out of the program and became a regional publicity secretary for the United Democratic Front. He has spent much of this year in detention.

THE DEPTH of bitterness among blacks could be seen at a cocktail party attended by both Harry Oppenheimer and Cyril Ramaphosa. The awkward event showed the gap between black radicalism and white capitalist liberalism. The occasion was the first birthday of a small liberal weekly newspaper. Its mostly white liberal readers mingled and nibbled hors d'oeuvres and sipped wine. Ramaphosa came with a half-dozen miners who sang a brief musical chorus about the virtues of socialism. He delivered a prepared speech, saying bluntly that "it is too late for free enterprise to serve this country. Blacks have reaped nothing from free enterprise except poverty, massive unemployment, and inadequate medical care." Oppenheimer said he was sorry politics had to spoil the fun of a birthday party: "It is unfortunate to link the battle against racial discrimination with the battle against free enterprise. They are not as irrevocably linked as some suppose."

Maybe. Paradoxically, Anglo's sheer size, which makes it a target of nationalization threats, may ultimately save the company. Nthato Motlana, head of the Soweto Civic Association and one of the more conservative activists when it comes to economic matters, says: "Anglo needs to be reassessed. The company will be shorn of some of its unacceptable practices, but we'll coexist with Anglo. We need their talent for mining. We're not going to kill the goose that lays the golden egg." □

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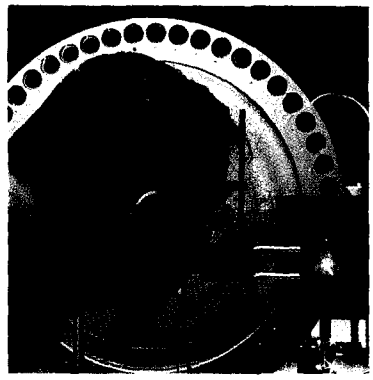

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STANLEY KAUFFMANN ON FILMS

"Don't Mean Nothin' "

Less than a year after the release of *Platoon*, the American film world has another reason to be proud. *Hamburger Hill* treats combat in the Vietnam War with a candor that equals that of *Platoon* and in some ways goes past it; and no one can be charged with following a trend because obviously *Hamburger Hill* went into production long before anyone knew that *Platoon* would be a hit.

Hamburger Hill
(Paramount)

The film began, we're told, with the writer, Jim Carabatsos, who was encouraged by the producer, Marcia Nasatir. Carabatsos, who served in Vietnam, has written previous screenplays, including the synthetic *Heartbreak Ridge* for Clint Eastwood; Nasatir was a producer of that glossy angst-travelogue *The Big Chill*. Out of these dim antecedents came this unsparing film. The writer and the producer made another leap by selecting the English director John Irvin, who had done the reticent, taut BBC serial *Tinker, Tailor, Soldier, Spy* and the lapidary *Turtle Diary*. Irvin had long ago made some documentaries about war, including one about Vietnam, but little in his past indicated that he was the man for this job—which he certainly proved to be.

"Hamburger Hill," a nickname that needs no explanation, is a mountain near the Laotian border that U.S. forces took from the North Vietnamese after 11 assaults between the 10th and the 20th of May 1969. Carabatsos concentrated on one squad, 14 men, of the 101st Airborne Division, who were in the worst of the fighting. Their company suffered 70 percent casualties. (One of war's recurrent grisly jokes: a month later the Vietnamese reoccupied the hill.) To build a war film of large intent on one contained episode is not a fresh idea; for instance, two films about the Korean War, *Men in War* and *Pork Chop Hill*, were about a battle for a hill. But *Hamburger Hill* began with a difference—a difference even from *Platoon*: the filmmakers insisted on using virtually unknown actors. This is certainly not to say that the recognition factor always hurts an ultrarealistic film; I can't begin to cite examples that prove otherwise. But in this case the virtual anonymity of the cast is a benefit. It underscores the anonymity of soldiers everywhere—the anonymity that their commanders want for them and that the wash of history over armies finally achieves.

The film begins—after we hear some voices on field radios—with a slow pan of the Vietnam Memorial in Washington, that awesome stone roster, each name known to a few, all the names woven into one long heartache. Through the monument, the film fades into close-ups of men in battle, thus telling us from the start that behind the marble are tens of thousands of individual young human beings. Who were killed.

Hamburger Hill particularizes a few of those young men. They are not especially interesting in themselves; the film would be betrayed if they were. Their ordinariness is their importance. They exemplify Randall Jarrell's line about the ball turret gunner: "From my mother's sleep I fell into the State," and this is what the State has done with them.

Some early sequences take place to the rear of battle, though never far from surprise attack. We see Vietnamese peasants trying to continue their lives right in the midst of war. We become acquainted with the squad, in camp and at a brothel. (There are flare-ups between the few blacks and the whites in the squad before and after their return to the front.) But most of the film is about the assaults on the hill and the lulls in between; most of it makes hell look like a Rest and Recreation Area. (It was filmed in the Philippines.) Awful details are not skimped: intestines are ripped out, a head is blown off—toward the end, a missing arm almost seems mild. I suppose that those who flock to horror films will avoid *Hamburger Hill*. Horror films contain a kind of reality, too, but not one that entails responsibility.

The closest point of comparison for this film is of course *Platoon*, and, much as they resemble each other, there is a distinct difference. The prime purpose of *Platoon* is to explore the effect of combat on a combatant's morality: how long a man can remain recognizable to himself in the midst of intensities that shatter most of what has previously guided his life. The point of *Hamburger Hill* is concentratedly mimetic: simply to put us there, to drench us in the sight and sound (markedly the sound); to make at least a few of us feel some responsibility for their being there.

This leads to the matter of attitudes back home at the time, which were also part of *The Hanoi Hilton*. Here the matter is handled quite differently. These men are shocked by what they know of the lunatic fringe of the peace movement, by a remark—about the futility of the assaults—credited to Senator Kennedy (given without context). But unlike *The Hanoi Hilton*, that's where the matter stops. No attempt is made to wipe out the fact that most of the peace movement was trying to get these men out of the deathtrap they were in, out of a pointless and immorally instituted war.

FILMS WORTH SEEING

Matewan. Labor strife in a West Virginia coal-mining town, 1920, with James Earl Jones as one of the strikers. Not as moving as it ought to be, but time and place are lovingly rendered. (Reviewed 9/7/87)

Roxanne. Steve Martin amazes—and, gad, charms—as a modern-day Cyrano de Bergerac in a script he wrote himself. Wonders *will* never cease. (6/29/87)

The Untouchables. An old meat-and-potatoes gangster movie done in nouvelle cuisine. Al Capone and Eliot Ness, Chicago 1930. Bloody but entertaining. (6/22/87)

Wish You Were Here. Emily Lloyd high-handedly fine as a teenage English girl, 1951, who makes trouble for herself and others—and doesn't much care. The ending is a bit "happied up"; still, there's comic truth along the way. (8/3/87)

SK

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And of course this new film brings *Full Metal Jacket* to mind, too. It further discredits Kubrick's work as stylistic toying with destruction.

Hamburger Hill is so excellently directed, so generally well written and acted that I'm all the more obliged to note a few lapses. In an acute review of *Platoon* (*Dissent*, Summer 1987), William Adams pointed out that Stone's film, for all its realism, "is nonetheless a piece of fiction . . . guided by a series of . . . nonrealistic literary and cinematic conventions." The new film is much more doggedly realistic. It makes no reference to Ahab; it contains no "rite of passage" through which, Adams says, "*Platoon*, ironically, continues to inform us of the romantic possibilities of war." But there are moments when its cinematic methods come to the fore and, briefly, distract us. Occasionally the camera shakes when there's an explosion nearby. Irvin uses this footage presumably to emphasize the shock; to me, it's an intervention of the camera's presence. Once in a while Carabatsos's good dialogue moves—in an almost visible way—toward the shape of a Scene, sometimes with a closing reminiscent monologue; and at the end of these Scenes, Irvin tracks the camera in slowly on the speaker with a touch of filmic self-consciousness. A few of the soldiers, a small part of the time, dissolve into actors. The dramatic music—by Philip Glass—under the last assault ought to have been omitted.

But Glass's opening music is stringent and grim. The rock number as the helicopters land the squad near the base of the hill is shattering. Peter MacDonald's cinematography could hardly be bettered. Two of the actors are especially fine: Dylan McDermott as a young but seasoned sergeant, Tim Quill as a relative newcomer.

After the death of one of the squad, the sergeant says, "He died for the squad, not for God or for country or even the 101st Airborne," and by then we are so enclosed in this small cosmos that we believe it—especially when they go up the hill again and the sergeant says, "You don't have to like it, you just have to show up." One phrase runs through the film like a litany: "Don't mean nothin'." The men intone it after a fight between two of them, after members of the squad are killed in combat: they repeat it and repeat it—it's the only dope in the picture. Out of what they are doing and enduring, the only sense they can make is non-sense. □

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Is Western culture really in decline?

THE PHILOSOPHER AND THE EVERYDAY

BY TZVETAN TODOROV

SOMETHING IS ROTTEN. Our culture is going downhill. Thought has been vanquished. The barbarians are coming. These are the common themes of several books (each of which also has its own, specific themes) published last spring in Paris. The very titles of these books proclaim the gravity of the danger: *La Barbarie* by Michel Henry; *La Défaite de la pensée* by Alain Finkielkraut; *L'Ame désarmée* by Allan Bloom, which is the French translation of *The Closing of the American Mind*. Even so unlikely a figure as former President Richard Nixon has joined the chorus: upon being elected to the Académie des Beaux-Arts last May, he complained that we live in an "age of frivolity and vulgarity . . . at a time when the music we all loved in our youth is being drowned out by weird waves of noises known as music." These Cassandra cries were taken seriously enough to spark a lively debate in the columns of newspapers and journals.

The substance of the argument runs as follows. We no longer know how to tell good from evil, the beautiful from the ugly, the elevated from the moronic, the essential from the ridiculous. The fault lies with the relativism of values currently in vogue, with the rejection of all guiding principles other than tolerance. This relativism is the final consequence of the Cartesian revolution, which placed man at the center of the universe and transformed technical thinking, in the broader sense of the term, into the norm for all thought.

The argument copies precisely the scheme used by Heidegger in his attack on modernity; and indeed all these criticisms of contemporary culture can be seen as so many variations on the Heideggerian condemnation. The reference to Heidegger is explicit in Henry's work; Finkielkraut has resorted to it in the course of the polemical exchange aroused by his book; and although Bloom pictures Heidegger as the great modern nihilist, this does not prevent him (as it did not prevent his master, Leo Strauss) from borrowing Heidegger's historical scheme, simply inserting Machiavelli and Hobbes into the slot occupied by Descartes.

These books have met with impressive acclaim in France. They spent a good while on the best-seller list; their authors made numerous radio and TV appearances; they won the admiration of (nearly) all their reviewers. Bloom accomplished a tour de force by eliciting praise from both the *Nouvel Observateur* (moderate left) and the *Figaro* (conservative right), and from both the professors of the Sorbonne and those of the Ecole des Hautes Etudes—doubtless benefiting from the a priori prestige bestowed on works of (non-Marxist) political philosophy in France these days.

It is possible, of course, that this broad consensus proves the accuracy of these books' hypotheses. Yet the very success of their argument is a problem. For if the books really are good, then the public, far from being boorish and uncultivated, knows how to appreciate quality—and the books' central argument is false. On the other hand, if the argument is true, and the public can appreciate only books aimed at its own low level and the mass media can glorify nothing but marketability, then these books do not embody the high culture they extol, and are therefore not good.

The same type of paradox—let us call it a "reflexive contradiction"—turns up within the books themselves. Bloom invokes it in his discussion of Freud, whose theory cannot account for its own existence; but I am not convinced that Bloom is free of the contradiction himself. For example, his denunciation of the false alternatives that characterize modern decadence by no means prevents him from presenting himself as the only conceivable rampart against the rising tide of nihilism. And it is surprising that someone who points an accusatory finger at the sloppy assimilations practiced by his contemporaries should allow an entire book to rest on an assimilation as debatable as that between the American Founding Fathers and Plato (as understood by Strauss).

Is it possible simultaneously to defend democracy and to place the entire burden for modern error on the shoulders of Locke and Rousseau? Does Bloom not confuse reason with tradition when he describes his own refusal to clear the table and wash the dishes (a refusal certainly traditional with many males) as a rational choice, on the noble pretext that men should avoid the annoying "fragmentation of their lives"? Or when he states that "the procreation *and rearing* of children" are *biologically* incumbent upon females (my emphasis; the chapter on women is an uninterrupted string of such gems)?

But the "reflexive contradiction" I find most eloquent in Bloom's book is this: among his various occasions for nostalgia is the good old Western movie, which people used to watch without a bunch of anti-racist and anti-sexist considerations spoiling their enjoyment. Yet he also recounts an incident that deeply troubled him (and, indeed, seems to have been the point of departure for the book itself): one day he was among a group of professors who were threatened at gunpoint by a group of "revolutionary" students. I share his indignation, of course; yet I cannot help noticing his reluctance to profit from this unique opportunity actually to take part in a Western himself.

Alain Finkielkraut is a gifted young essayist of a very different political persuasion from Bloom's. He has written several highly praised books (including *Le Juif imaginaire*). *La Défaite de la pensée* is an ardent plea in defense of culture, which Finkielkraut sees as beleaguered on two fronts. On the one hand, culture partakes of universality, and is incompatible with national or local specificities; on the other, it is demanding, difficult, and selective, in contrast to today's general infantilism, decline of values, and technocracy.

Thus, like Bloom, Finkielkraut deplores the confusions and the approximations that characterize our nonculture—and yet his own book, like Bloom's, is not entirely exempt from them. Assimilating the founders of democracy to Heidegger, as Finkielkraut does, is scarcely less hazardous than conflating Jefferson and Plato. The ideas of Voltaire and Sieyès, Herder and Goethe, de Maistre and Renan, as evoked by Finkielkraut, are so far removed from their original complexity that one might

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wonder whether subjecting them to this treatment is doing culture a great favor. Finkielkraut denounces the oversimplifications of his contemporaries, their tendency to reduce all questions to blunt alternatives; yet he himself often sets up similarly impossible choices. *Either* you adhere to universal values *or* you love your own culture; *either* you espouse Western values *or* you are guilty of relativism; *either* the nation represents the spirit of the people, the *Volksgeist*, *or* it is nothing but a contract among citizens (as though the word "nation" meant the same thing in both cases); *either* human behavior and cultural products are entirely determined by national and historical appurtenance *or* they are the product of free will and universal spirit; *either* you like philosophy *or* you like knitting; *either* Beethoven *or* Bob Marley . . . .

STILL, if we spend too much time pointing up the "reflexive contradictions" of these authors, we run the risk of neglecting the questions they raise. Let us examine the message itself. Is it true that our culture is on the wane? Judging from the quality of recent declarations made by France's various Ministers of Culture, I would say it is. On the other hand, I think it likely—no offense to Richard Nixon—that we listen to more classical music and read more books today than at any time in the past.

But my real objection is not statistical. Like Bloom and Finkielkraut, I believe that it is necessary to combat nihilism, historicism, and all-out cultural relativism. If I am ordered, however, to choose between Shakespeare and a pair of boots, between a life of reflection and "the ancestral habit of dipping a thickly-buttered slice of bread into my morning coffee" (these are the kinds of either/ors Finkielkraut poses), I have to consider this way of putting things to be an oversimplification that verges on demagogy. I agree that it is important to make distinctions and judgments; but I am by no means sure that everything that is not official art or professional philosophy must be contemptuously spurned. This manner of proceeding culls none of the benefits of relativistic thinking; it simply takes us back to where we started: to the dogmatism that was responsible for the rise of relativism in the first place.

One might begin by pointing out, as did Gérard Genette in his response to Finkielkraut, that every art has a multiplicity of genres, each of which has its

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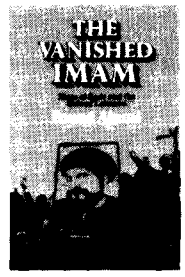

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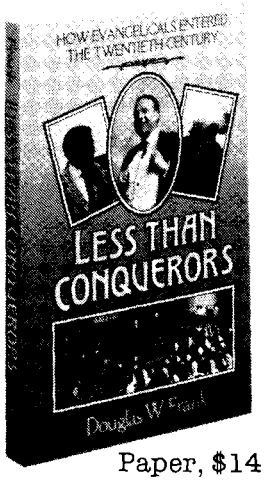
Douglas W. Frank



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own ideal, and that the same medium may serve a number of different forms of expression. Do Bob Marley and Beethoven really practice the same art? One might note further that the great artists themselves have not always been as contemptuous of popular art as these critics might wish; on the contrary, they have attempted to assimilate it and to use it for their own ends. Examples abound in the realm of music, but the same is true of literature: Dostoyevsky exploited the serialized novel form of Eugène Sue, and he was neither the first nor the last to do so. This is why structural analysis—"poetics"—is perfectly justified in pointing out the features artistic novels have in common with popular novels (namely, narrative and rhetorical techniques). To be "against" poetics, as Finkielkraut is, is as pointless as to be "against" history. (Pascal said he was "against the history of China.") Both are necessary as a basis for aesthetic judgment, even if they do not suffice to produce it.

BUT I THINK it possible to go further, and to challenge the very terms in which the debate is couched. In the first sentence of his book, Finkielkraut (quoting Jean-Luc Godard quoting Brice Parain) opposes everyday life to a life of reflection. In his later interventions, invoking Heidegger, he opposes calculation to meditation—or, again, technical intelligence to ontological intelligence. This dichotomy—in which the shining star of art is seen as antithetical to daily drizzle, the misunderstood artist as struggling against his "bourgeois public," the poetic metaphor as divorced from everyday language ("universal reporting," in Mallarmé's phrase)—appears to be yet another "inheritance of German Romanticism," conferred on us by Heidegger and of dubious usefulness. It seems to me that the real alternative is between a conception that describes thought and everyday life as mutually exclusive and a conception in which they interact and are mutually enhancing.

Beauty does not always—or only—appear where it has been decreed to exist. Popular art deserves consideration not only because it can serve as raw material for "great" art, but also because it is often beautiful in its own right (as Goethe, an enthusiast of Serbian folk songs, well knew). I would gladly swap my Mondrian for a fine Moroccan rug (too bad I don't have a Mondrian!). In an article in *Le Débat* called "Art Outside of Art," Jean-Philippe Domecq judiciously observes that there is far more artistry in racing cars than in the sculptures César, the French avant-garde artist, fabricates by compressing them. Beauty overflows objects. Is our culture, which requires that we glorify art and despise the quotidian, really superior to the culture of the Far East, which finds beauty in the slightest gesture—the wrapping of a package, the furnishing of a room, the harmony of a garden or a bouquet? Junichiro Tanizaki, in his essay on Japanese and Chinese aesthetics, *In Praise of Shadows*, goes so far as to claim that "it is in the construction of toilets that Japanese architecture reaches the peak of its refinement." It is easy to prefer a work of art to one's morning toast. It is much more interesting to turn one's morning toast into a work of art.

I would say the same thing about the life of reflection. Julien Benda, whom Finkielkraut quotes frequently (*La Défaite de la pensée* is a sequel to *The Treason of the Intellectuals*), believed that the ills of our society derive from the fact that contemporary philosophers "no longer live as Descartes and Spinoza, but marry, have children, occupy positions, participate *in life*." But was the philosophy of the past really as perfect as all that? Might not a better acquaintance with the quotidian, a certain "fragmentation of their lives," have given these intellectuals a more accurate vision of humanity itself? Is an existence that does not culminate in the production of a book or a work of art necessarily a life devoid of thinking (or characterized only by "calculation")? It is always disappointing to see an author pour wisdom onto his pages but exclude it from his daily life; a philosopher should know not only how to read La Rochefoucauld, but how to be an *honnête homme* (or *femme*). This is why the contradictions I have cited are not mere ad hominem arguments: I would like the books I read to illustrate the virtues they extol.

DOES THIS mean that these books can be dismissed as a false alarm? Not quite. But they must be brought back into perspective. It is true that the democratic principles we cherish are not necessarily, or not consistently, favorable to the flourishing of culture. Tocqueville gave several reasons for this in the second volume of *Democracy in America*, and we might add another: the law of the free market, which is the economic face of democracy, is ill-adapted to high culture. If culture were totally

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subjected to commerce, there would be nothing but soap operas on TV, *Rambo* at the movies, and Harlequin romances in the bookstores (or rather in the supermarkets, since there would be no more bookstores). If one wants to promote high-quality culture, one must practice public or private patronage and not be concerned exclusively with profits. This is but one example of Louis Dumont's general rule that within a democratic society, some aspects of life must remain free of the exigencies of democracy.

Thus there is a danger, although it is not as serious as we have been told. The danger to culture is vulgarity (the childhood illness of democracy), not barbarism. But it is pointless, and indeed irresponsible, to be too alarmed about the vulgarity of culture. For barbarism *does* exist, and our efforts to overcome it can never be too great. In the 20th century, its name is Auschwitz, Kolyma, Hiroshima; and it is not a thing of the past—people are dying in the gulag today, and the health of our children is already threatened by nuclear technology, both "peaceful" and military (a development in "technical thinking" that seems to me more menacing than poetics). When people tell me that the darkest shadow looming over today's world is neither totalitarianism nor militarism but cultural infantilism, kitsch, and popular entertainment, I'm willing to believe that they are sincere, but I can't help thinking that they are talking about their own lives rather than thinking about the world.

Bork's new image and Rehnquist's new book: the clear and present danger.

COUP AT THE COURT

BY RENATA ADLER

I.

THE UNPRECEDENTED, increasingly improper and deceptive campaign by and on behalf of Robert H. Bork for a seat on the Supreme Court is beginning to provide some measure of the degree to which Americans ought to be frightened by that nomination. In an essay "On Lying and Politics," Hannah Arendt long ago pointed out the entirely contemporary dangers in confusing Madison Avenue public relations with genuine politics—the difference between selling an, inherently "defactualized," "image" to a "consumer" and the legitimate political contention among electoral candidates for the decision of the voter, which, in an open society, necessarily involves some ascertainable element of fact.

But we have never had a political "candidate" marketed in this sense for the nation's highest court before. It is astonishing how far the "defactualization" has already gone. A law professor and a judge on a federal appellate court has, one would have thought undeniably, a factual "record." Bork's views on constitutional law, as expressed in his published articles and opinions, exist. Taken together they would amount to no more than a single, small volume or tract. But they are hard to read, cynical, poorly reasoned, and ideologically extreme to a degree that is unusual even on the outermost fringes of our public life. Few people apparently have taken the trouble to wade through them.

Every few days, however, the Bork lobby manages to plant, in the *New York Times* or the *Washington Post* or elsewhere, some story to the effect that, contrary to his record of more than 20 years, Bork is now, or has ever been, a "centrist," or a "moderate," or "open-minded," or anywhere near the "mainstream" of constitutional adjudication (going back more than 30, and in important lines of cases more than 60, years) that Bork himself has repeatedly and stridently denounced as "lawless," "unprincipled," "improper," and "deficient" in "candor," "logic," and "legitimacy." The resulting stories now unhesitatingly characterize as "liberal" anyone who happens to oppose Bork's nomination; they also promote an image of the nominee, contradicted surprisingly but absolutely by his published work, as a respecter of "original intent" and an advocate or a practitioner of "judicial restraint."

"The man," Bork once wrote, in his long, often quoted article in the *Indiana Law Journal* in 1971, "who *understands* the issues and *nevertheless insists* upon the *rightness* of the Warren Court's *performance* ... occupies an impossible philosophic position" (emphasis added). (Look at the tone; look at the vocabulary; look particularly at the word "performance.") "Such a man," namely anyone who does not share Bork's own theories and ideological commitments, "prefers *results* to *processes*" and "claims for *the Supreme Court*" a "role as *perpetrator* of limited coups d'état" (emphasis added). Bork went on to say that he could see "no reason" why such a person should not entirely "ignore the Court whenever he can get away with it and overthrow it if he can"—or why this person should not choose to "argue the case to some other group, say the Joint Chiefs of Staff."

The putsch vocabulary of "coups d'état" is characteristic, as is the habit, the mentality, of extreme overstatement disguised as rational argument. And the "performance" of which this revised and repackaged "centrist" wrote with such derision has, of course, been the law of the land for more than 30 years. In some forums the Bork campaign has managed to convey the impression that the nominee has somehow tempered, or even changed, his more rigid and most often reiterated views. But with his real constituents, and outside the mainstream press, Bork leaves no doubt: "I finally worked out a philosophy which is expressed pretty much in that 1971 *Indiana Law Journal* piece," he said in the *Conservative Digest* in late 1985; and in June 1985 in the *District Lawyer*: "My views have remained about what they were." The reason we cannot dismiss much of his published work as instances of a simultaneously ponderous

continued on page 40

Renata Adler is a writer at the *New Yorker*.

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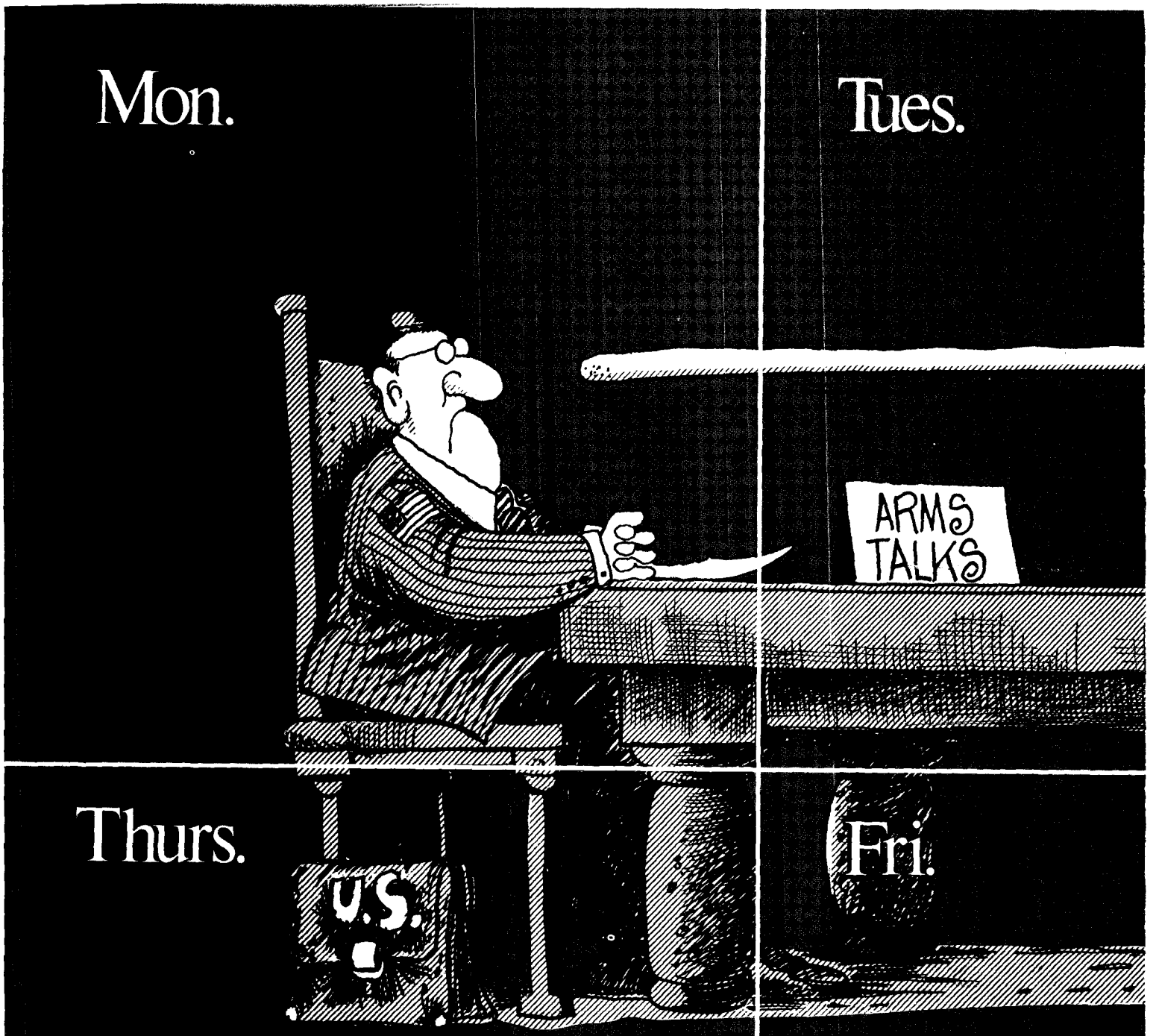

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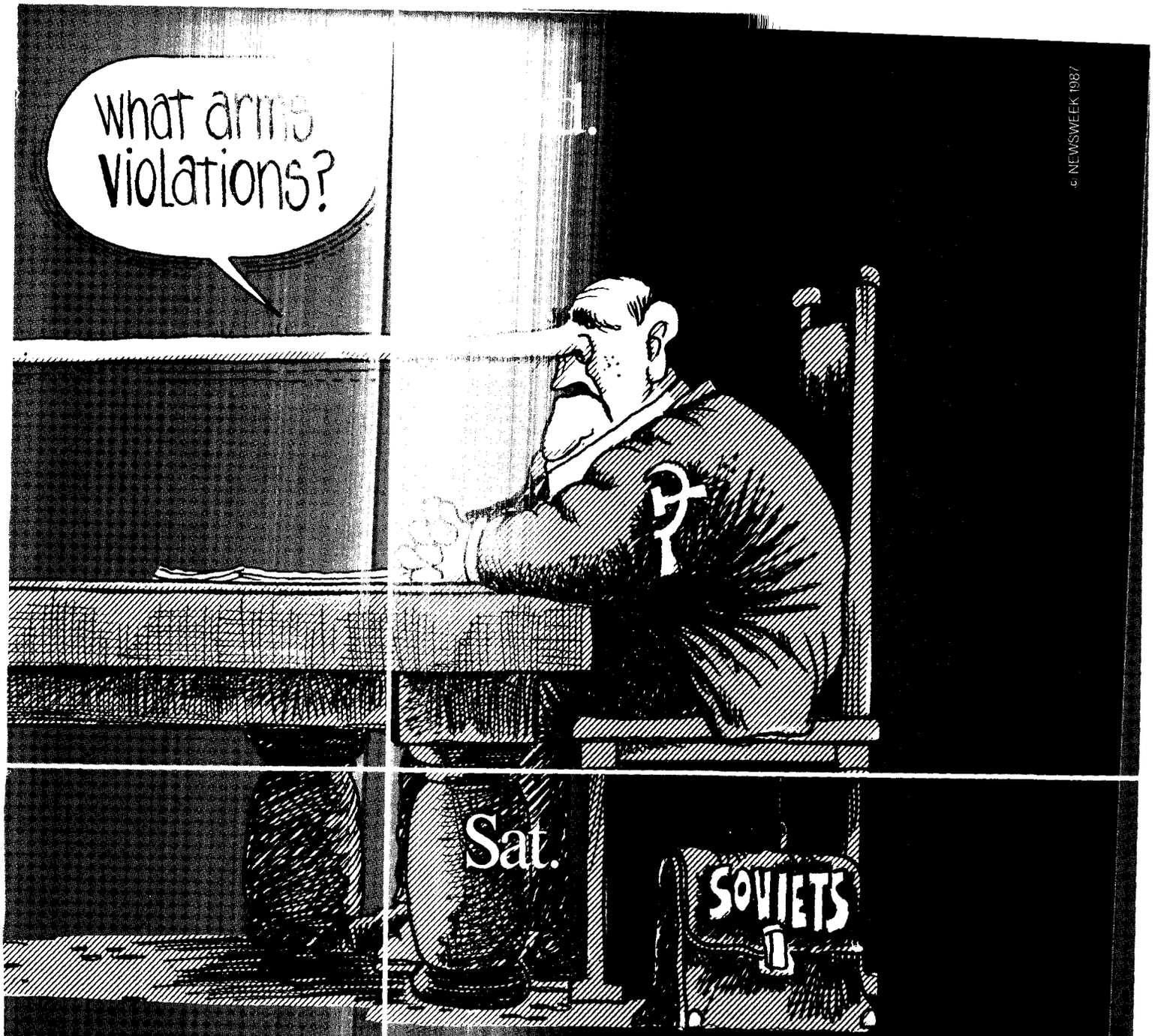

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and cutting sarcasm, more refreshing perhaps in academic circles than becoming to a judge, is that it is Bork himself who turns out to prefer "results" to "processes." In fact, when it suits him he manages to set "processes," and the Constitution itself, entirely aside in order to reach his preferred "results."

"Logic has a life of its own," Bork wrote in the *Indiana Law Journal* piece, "and devotion to principle requires that we follow where logic leads." Bork likes the words "logic" and "logical," and categorical statements claiming "neutrality" or labeling themselves "neutral" but phrased in terms of absolutism and excess: "all," "any," "nothing," "no one," "none," "ugly," "offensive," "repugnant," "coerced," "compelled." And, "I would be appalled by many statutes that I am compelled to think would be constitutional." The five areas in which Bork has been most radically, insistently, and "logically" at variance with constitutional precedent, and in which he would think himself inescapably "compelled" to uphold "many statutes" struck down as unconstitutional in the past six decades by the Court, are these: privacy, equal protection, race, due process, and speech.

Privacy. Bork not only unequivocally denies, he repeatedly and scornfully derides the very notion that such a constitutional right exists. This view has consequences. It means, for instance, that *Roe* v. *Wade* must be overruled. Bork has called it an "unconstitutional decision" and a "wholly unjustified judicial usurpation"—which would require him, under his own constitutional oath, not to leave it in place in deference to precedent or to the continuity of the Court, but to overrule it. State legislatures would be empowered, of course, to pass criminal statutes that ban abortions. But since no right of privacy exists, and since a woman has no rights in the matter one way or the other, the states could as readily enact statutes that *impose* abortion—on welfare mothers, say, or on single mothers, or on any group of women defined by any criteria other than "invidious racial classification," the only category of discrimination that Bork acknowledges as forbidden by the 14th Amendment. Whether Bork would be "appalled" by such a statute is not clear. "Logic" and "devotion to principle" would oblige him to uphold it.

Equal protection. Bork explicitly finds in the equal protection clause of the 14th Amendment only "two legitimate meanings": "It *can* require formal procedural equality, and . . . it *does* require that government not discriminate along racial lines" (emphasis added). "But much more than that cannot properly be read into the clause." This too has consequences. Except maybe ("can require") in the strictest "formal procedural" sense, it excludes from constitutional equal protection of the law not only all women, and of course all homosexuals, but any other group or minority not explicitly defined by race. There is no constitutional impediment to enacting into law any community prejudice against groups defined, say, by class, affinity, profession, union, party affiliation, infirmity, age, culture, physical or mental attribute, non-racial physical similarity, or even religious belief.

State legislatures at present seem benign enough not to enact most statutes of that kind. But Bork has not in the past been perceptibly "appalled" by laws or policies that involve, for instance, sterilization. In the *Indiana Law Journal* piece, among many pre-Warren Court cases he found "improper" and "wrongly decided" was *Skinner* v. *Oklahoma*, a 1942 decision in which the Court struck down a statute that required sterilization of "habitual criminals"; and as recently as 1984, in *Oil, Chemical, and Atomic Workers* v. *American Cyanamid*, he found no difficulty in adopting the language, and sympathizing with the conduct, of a company that "offered" its female employees, as an "option" under what it called its "fetal protection policy," the choice between "proof of surgical sterilization" and being fired. If, under the pressures of some not unimaginable or unforeseeable crisis, states were to pass some "racially neutral" statute ranging from discrimination against members of the unprotected groups to relocation or even sterilization of them, Bork would be "compelled" by "logic" and "devotion to principle" to uphold it.

Race. Since Bork finds in the equal protection clause nothing substantive, except that "government [may] not discriminate along racial lines," one might think he would hold firm at least on race. But no, or at least not on the side of equal protection and desegregation. There are not only intemperate and perhaps hastily drafted views: his infelicitous phrase in a 1978 article in the *Wall Street Journal*, for example, which characterized as "hard core racists of reverse discrimination" a group that would include at least four justices in *Bakke*—and perhaps also the main target of Bork's attack in that article, Justice Lewis Powell. Bork's relentless habit of extreme overstatement leads him to find in *any* decision that strikes down state enforcement of racial discrimination an unconscionable intrusion on some right or "freedom" to discriminate on racial grounds. Thus, among the many pre-Warren Court lines of cases that he ex-

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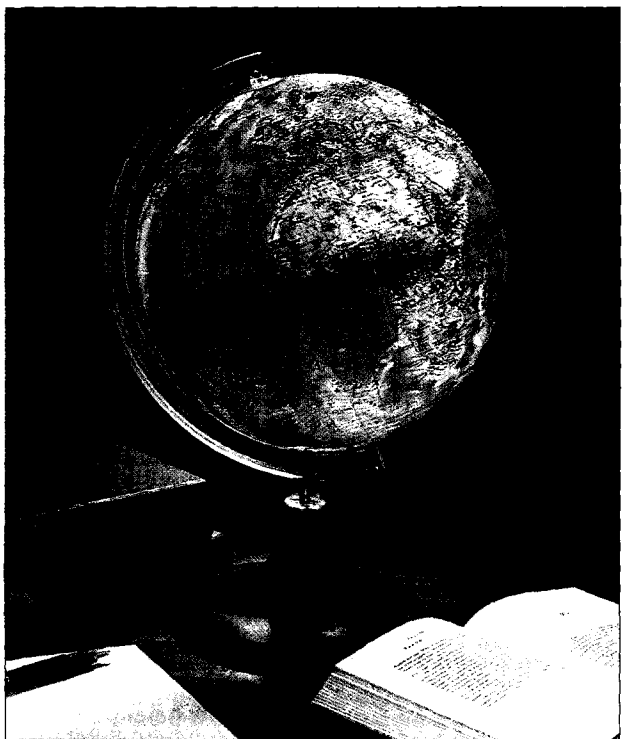

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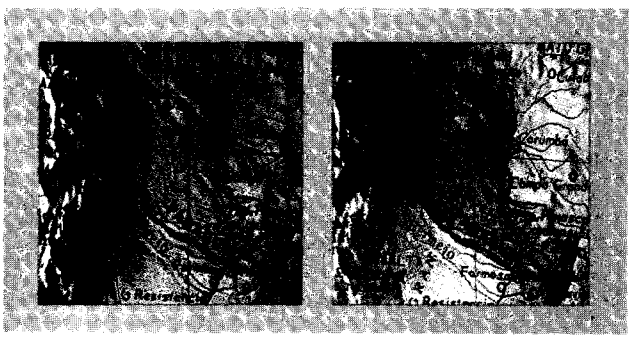

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plicitly states "logic" and "devotion to principle" oblige him to find unconstitutional is *Shelley* v. *Kraemer*, a 1948 case in which the Court struck down a state court decision to enforce contracts that included "a private, racially restrictive covenant."

"The rule of *Shelley*," Bork wrote, "would require the Court to deny the freedom of any individual to discriminate in the conduct of any part of his affairs." The "rule" would apply as well to "any situation in which the person claiming freedom in any relationship had a racial motivation." The rhetoric of sheer racist, alarmist demagoguery is not unfamiliar from white segregationist politicians in the South of the early '60s, most of whom came around far sooner and more generously than Bork to the acknowledgment that permitting blacks to exercise certain constitutional rights would not immediately and "logically" infringe upon the "freedom" of whites to discriminate "in *any* relationship." Bork has written several times that he would uphold *Brown* v. *Board of Education*—though not on the grounds on which the Warren Court decided it, and not with any of the remedies that the Court and Congress itself have used to implement the decision.

But if the "rule of *Shelley*," which after all upholds only the right of a willing black buyer to purchase a house from a willing white seller, seems to Bork so drastically to threaten the "freedom" of the individual to discriminate "in any part of his affairs," it is hardly credible that he would have concurred in *Brown*, which required the desegregation of the nation's entire school system. (Lord knows how he would, at the time, have formulated "the rule of *Brown*.") And it is of course how a judge or a justice decides a case *at the time* it comes before him, and not some belated and grudging acknowledgment that the law, to which the vast majority has long been reconciled, is workable and should therefore be upheld, that defines the exercise of his constitutional duty "to say what the law is."

DUE PROCESS. The Court has often used the constitutional guarantee that citizens shall not be deprived of liberty without due process of law to reach the results, particularly in the privacy cases, that Bork most consistently and vituperatively deplores. Thus, Justice John Paul Stevens, in an address on "liberty" before the Eighth Circuit Judicial Conference in July, used the arguments of due process to explain the Court's decisions in several important lines of cases, including specifically *Roe* v. *Wade* and *Griswold* v. *Connecticut* (a 1965 decision that struck down a statute that banned even married couples from using contraceptives), which Bork has always gone out of his way, as recently as his 1984 opinion in *Dronenberg* v. *Zech*, to deride.

A primary target of Bork's attack on Supreme Court precedent, and the decision to which he returns most obsessively, is *Griswold*. He has repeatedly compared the "right" of married couples, in *Griswold*, to use contraceptives to the "right" of a utility company to generate "smoke pollution." "The majority finds the use of contraceptives immoral. Knowledge that it takes place and that the State makes no effort to inhibit it causes the majority anguish, impairs their gratifications. . . . The smoke pollution regulation impairs . . . the company's stockholders' economic gratifications. . . . Why is sexual gratification more worthy than moral gratification? Why is sexual gratification nobler than economic gratification?" and so on. "The cases," he has written, more than once, "are identical."

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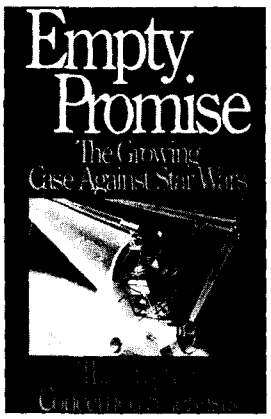

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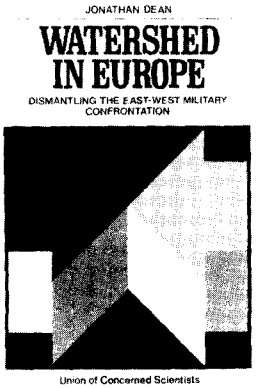

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oddly enough, that Bork's positions, and his possible appointment to the Court, pose the most radical threat to the whole constitutional system, and would set in motion the most immediate and far-reaching transformation of the society. Bork has never deviated in any significant respect from what he regards as his insight that the only speech protected by the Constitution is "explicitly and predominantly political speech." For years he excluded from protection all art, all science, philosophy, education, and literature. He has more recently relented, to include, in protected "political speech," "science" and "normative discussion." Art, literature, and the rest may still, without constitutional protection, be censored, banned, subject to criminal prosecution. But that is not the point. Bork specifically removes from his own category of constitutionally protected "political speech" "*any speech advocating the violation of law*" (emphasis added).

In this he consciously repudiates, as "deficient in logic and analysis as well as in history," the "clear and present danger" standard enunciated more than 60 years ago by Holmes and Brandeis and developed in the intervening decades by the Court. But what he misses entirely, in seeming so innocuously to exclude from protection "any speech advocating the violation of law," is the crucial question of who is to define "advocacy," or "violation," or even "speech." It is clear that if the judiciary, in the form of Justice Bork, refuses to make that determination, then someone else (the police, the neighbors, the prosecutor, at best the state legislatures or the federal executive or legislative branches) will. The Framers' very purpose in protecting speech so nearly absolutely ("Congress shall make no law ... abridging the freedom of speech") rested on their enlightened perception that "tyranny" resorts immediately to repression by declaring criminal the articulation of unpopular ideas in speech.

Since any utterance other than a bland affirmation of the status quo can be construed as political "advocacy" of the unprotected kind, the result can be an intimidated, essentially totalitarian silence, in which the majority is not merely prevented by the absence of speech from deciding what laws it really wants, but is finally prevented even from knowing whether it still constitutes a majority. These are not abstract dangers. Bork's formulation, excluding from constitutional protection "any speech advocating the violation of law," ignores the possibility that there can be, indeed the certainty that there have been, in this century and even in this country, bad, as it turned out unlawful, laws. It was "advocacy" of the "violation" of bad, as it turned out constitutionally unlawful, state "law"—advocacy in the form of boycotts, sit-ins, marches, sermons, peaceful demonstrations—that brought the unlawfulness of those bad laws to the attention of the federal courts, and that obliged first the courageous, honorable, mostly Republican judges on the Fifth Circuit, and then the justices on the Supreme Court, to "say what the law is," and thereby participate in one of the great periods of constitutional adjudication. If Bork's narrow conception of "explicitly political" speech had been the view of those "advocates" and those judges and that Court, it would have made impossible the whole peaceful and lawful transformation of the South.

As late as 1971, however, Bork could still write of the Framers that "they indicated a value when they said that speech in some sense was special." But they didn't "indicate a value," nor did they say that "speech in some sense was special." They said "Congress shall make no

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law." It was only because the plain language of the Constitution made it impossible for Bork to reach his preferred result, a formulation so narrow and repressive that it drained even the words "political" and "speech" of meaning, that he abandoned all pretense of "strict construction" or "judicial restraint" and went on to make laws of his own. In fact, there is a sense in which all issues of law, privacy, equal protection, race, due process, and speech are combined for Bork in a single set of ideological commitments, generally antagonistic to individual liberty, which he commonly expresses in terms of "morals," "public morals," "public morality."

IN TWO RECENT speeches on law and religion, for example, he ascribed dismissively to John Stuart Mill a notion that "an individual's liberty may not be infringed unless he causes harm to others," and that "material injury" counts as harm but "moral or aesthetic injury does not." "Thus," Bork wrote, as if warning of a particularly ugly and self-evidently untenable proposition, "morality becomes a matter for the individual, not for democratic regulation." Not pausing even to dismiss such a notion, he proceeded toward the "result" he had in mind: "relaxation of currently rigid secularist doctrine" and a few "sensible things to be done," namely the "reintroduction of some religion into public schools" and "some greater religious symbolism in our public life." So much for Supreme Court precedent in school prayer cases and in many matters of church and state.

The ease and frequency with which Bork uses the words "moral," "morality," "public morality"—let alone whatever is meant by "moral or aesthetic injury"—might disturb any judge, senator, or other citizen who is not altogether certain what these words, applied without definition or qualification of any kind to completely private and not violent or criminal conduct, can possibly mean. Bork has used the words most freely to apply to matters of sex, where he would impose "public morality" as "majoritarian" and "conclusively valid for that very reason"; and to race, where (in an article published in THE NEW REPUBLIC in August 1963, and developed in many subsequent articles and decisions) he scathingly deplores precisely the "morality of enforcing" majoritarian "morals," and the resulting "loss in a vital area of personal liberty," indeed the "principle of unsurpassed ugliness" embodied in "self-righteously imposing" the degree of "morality" required by the Interstate Public Accommodations Act, which became Title II of the Civil Rights Act of 1964. In other words, where "morality" seems to him to have to do with sex, he wants to impose it; where it has to do with race, he can think of nothing uglier than imposing "morality."

II.

I HAVE BEEN a registered Republican all my voting life. I had set out, unalarmed, to review Robert Bork's writings, along with William H. Rehnquist's book, *The Supreme Court: How It Was, How It Is* (Morrow, 338 pp., $18.95). The book seems at first equable and innocuous, a chatty little memoir of Rehnquist's clerkship in 1952 for Justice Robert H. Jackson, and perhaps a modest civics lesson, which Rehnquist himself describes as a "history of the Court from the time of John Marshall to the middle of the 20th century," and an attempt to "give some idea of how the Court has responded to important developments in the history of our country." The tone is personable, informal—with nothing, for instance, of the aggressive, sarcastic, intellectually shallow, biased, and even dishonest quality that has been characteristic of many of Justice Rehnquist's opinions, particularly in dissent. In a Reagan Court, Rehnquist would be less frequently, if at all, in dissent; and the degree of compromise required to enlist four other justices in a majority for his decisions might seem congenial to the non-confrontational, non-ideological fellow who wrote this apparently not very substantial book. Then the substance emerges with great clarity. The most remarkable thing about this first book about the Supreme Court by a sitting chief justice has to do entirely, almost breathtakingly, with what it eradicates and omits.

Rehnquist, avowedly, omits all cases after 1953, "because I wanted to avoid any discussion of the cases and doctrines in which any of my present colleagues have played a part"; he does in fact mention a 1983 case, a 1974 case, and a 1954 case, *Brown* v. *Board of Education*—which, it may be recalled, Rehnquist, clerking for Justice Jackson, wrote a controversial memo to oppose. The least important category of omission has to do with this interesting aspect of his clerkship. Rehnquist's 1952 memo in *Brown*, which was entitled "Memo: A Random Thought on the Segregation Cases," included these words:

> But as I read the history of this Court, it has seldom been out of hot water when attempting to interpret these individual rights. . . . [*Brown*] quite clearly is not one of those extreme cases which commands intervention from one of any conviction. . . . To the argument made by Thurgood not John Marshall that a majority may not deprive a minority of its constitutional right, the answer must be made that while this is sound in theory, in the long run *it is the majority who will determine what the constitutional rights of the minority are* [emphasis added].

And:

> One hundred and fifty years of attempts on the part of this Court *to protect minority rights of any kind*—whether those of business, slaveholders, or Jehovah's Witnesses—have all met the same fate. One by one the cases . . . have been sloughed off and crept silently to rest. . . . I realize that it is an unpopular and unhumanitarian position for which I have been excoriated by "liberal" colleagues, but I think *Plessy* v. *Ferguson* was right and should be reaffirmed [emphasis added].

At his confirmation hearings Rehnquist claimed that the memo, in which the word "I" appears five times, was a draft not of his own views, but of Justice Jackson's, in preparation for a "conference of the justices." This account has been disputed, in 1971 and 1986, as "a smear" by Elsie Douglas, Jackson's secretary, who added, "Justice Jackson did not ask law clerks to express his views." It has also been disputed by Jackson's biographer, Dennis J. Hutchinson, whom John A. Jenkins quoted in the *New York Times* of March 3, 1985, as having examined "every box, every detail" and having found no instance of Justice Jackson's ever having asked a law clerk to prepare a memo summarizing the justice's own views. And Jackson of course was part of a unanimous Court in *Brown*.

The memo was drafted, moreover, in evident ignorance of the fact that Justice Jackson himself had written major decisions "to protect minority rights" in many cases—one of the most eloquent and important of which was *Board of Education* v. *Barnette*, a 1943 decision upholding the rights precisely of Jehovah's Witnesses. And since Justice Jackson had also written, in perhaps his second most famous opinion, one of the major statements on behalf of "minority rights" in the history of the Court (his dissent in 1944 in *Korematsu* v. *U.S.*, the Japanese-

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American internment case), he would certainly have had no conceivable occasion, at a "conference of the justices" or elsewhere, to describe himself as having been "excoriated by 'liberal' colleagues." It does, in fact, seem inescapable from the very title of the memo, and from its form, style, and manifest content, that the "I" in this memo can be no one other than the clerk whose initials appear at the end of it, Rehnquist himself.

Hutchinson has more recently discovered two other memos drafted by Rehnquist as a clerk. Both opposed what turned out to be the majority opinion in *Terry* v. *Adams* (1953). "It is about time the Court faced the fact," Rehnquist wrote, "that the white people in the South don't like the colored people .... Liberals should be the first to realize ... that it does not do to push blindly through towards one constitutional goal without paying attention to other *equally desirable values* that are being *trampled* on in the process" (emphasis added). The "one constitutional goal" upheld in *Terry* v. *Adams* (in which Jackson, joining seven other justices, concurred as he had in *Brown*) was the right of blacks in Texas to vote in a pre-primary that was in effect the local election, and the "equally desirable value" being "trampled on" was the "right" of whites to exclude blacks from the vote.

IT MIGHT BE understandable that Rehnquist does not want to revive interest in these memos, or for that matter in any substantive issue he might have addressed in his year and a half as clerk. What gives a small clue that there is an element of at least cosmetic "defactualization" in this personal reminiscence is the fact that the author refers three times to Justice Jackson's secretary Elsie Douglas, in breezy, comradely, clerkish terms. A reader would have no indication either that the memos exist, or that there had once been an important case called *Terry* v. *Adams*, or even that this Elsie Douglas has troubled twice to make public distinctly uncomradely statements to the effect that the author is a liar by whom her boss Justice Jackson has been "smeared." This could all be evidence of a good-natured, friendly, bygones-be-bygones approach to controversies of the past.

But the second, astounding omission from this "history of the Court from the time of John Marshall to the middle of the 20th century," and from this account of "how the Court has responded to important developments in the history of

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our country," has ideological implications almost as strong as the most extreme positions declared by Bork. Rehnquist has left out, in addition to all the decisions of the Warren Court, in silence and as it were in passing, virtually all the major lines of cases (having to do with privacy; speech, whether political advocacy or other expression; voting rights; racial equality; prior restraint; right to counsel; illegal search and seizure; freedom of religion; and personal liberty) in which the Court has upheld an individual or minority right against the state, dating back through the '30s and '40s, under Charles Evans Hughes and Harlan Stone (both of whom Rehnquist professes to admire), and before.

Nothing here of Bork's despised 1948 *Shelley* v. *Kraemer*. Nothing of Holmes's and Brandeis's "clear and present danger" cases of the 1920s. Nothing either of the Scottsboro Boys case in 1932; or even of the case in 1914 in which the Court first upheld the exclusionary rule. Nothing of the free speech victories of the Hughes Court, or of Hughes's eloquent decision in 1931 in *Near* v. *Minnesota* on behalf of freedom of the press. Nothing particularly of a proposition advanced by Stone, speaking for a unanimous, far from "liberal" Court in 1938, in *U.S.* v. *Carolene Products*. That statement, anathema to Bork and Rehnquist, has been crucial to the evolving doctrine of the Court with respect to the constitutional rights of individuals against the "presumption of constitutionality" Rehnquist and Bork most unhesitatingly accord "majoritarian" statutes that infringe upon and repress the "liberty" of citizens—which it was, after all, the declared purpose of the Constitution, even in its Preamble, to secure.

ALL THESE omissions, in which the response of the Court to "important developments in the history of our country" has been eradicated, might reflect nothing more alarming than an immense oversight, based on Rehnquist's apparently lifelong predisposition in favor of assertions of governmental power over individual and minority rights. With the single exception of the 1952 Steel Seizure case, in which the Court upheld a lower court decision enjoining President Truman from exercising an emergency authority to run the steel companies at the time of the Korean War (a decision Rehnquist explains, perhaps tellingly, as the result of public relations pressures on the Court), Rehnquist approves, indeed even mentions, only those 20th-century decisions that uphold the exercise of governmental power.

The result is that the book, far from being a bland civics lesson, turns out to be a work of disinformation. The effect of erasing all that history, namely, the history of the great decisions of the Hughes Court and the Stone Court in the 1930s and the 1940s, and the major opinions of Holmes, Brandeis, even Jackson, is not only to make the Warren Court and the Burger Court of the 1960s and '70s seem an aberration. It is to leave a blank, a silence as total as that which eliminates from the "histories" of the Soviet Union all persons and events uncongenial to official Soviet "history," and from German and Japanese textbooks all unwelcome references to even the most recent and major events in the history of those countries. And by eradicating from "history" an immense body of constitutional adjudication dating back at least six decades, the book attempts to establish for any act or agenda of a Reagan Court a le-

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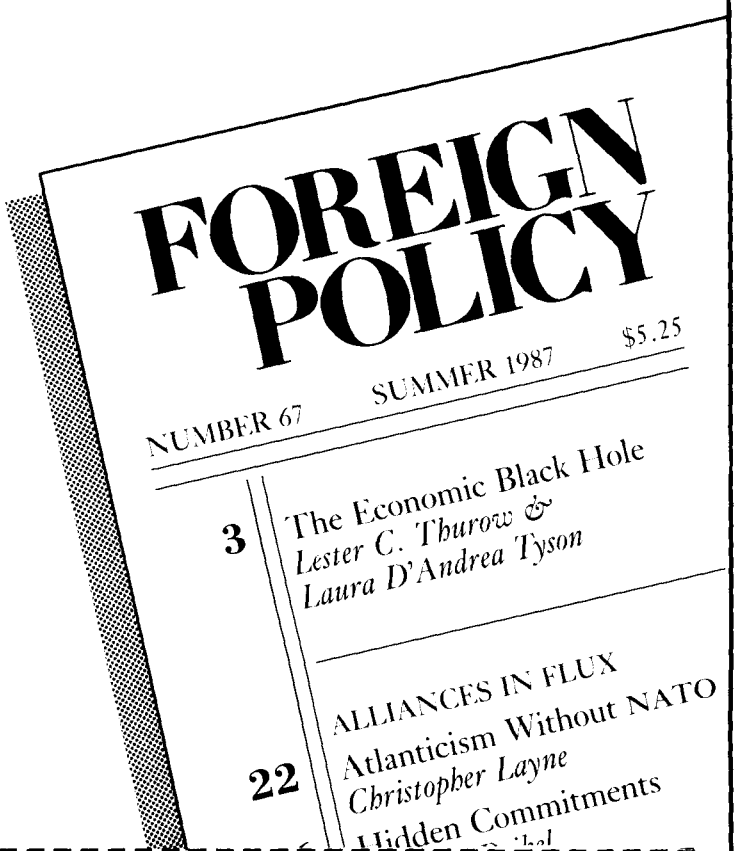

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gitimacy, a continuity with precedent, that can be based only on a "defactualizing" silence of this sweeping kind.

THIS RAISES still a third remarkable thing about the Rehnquist book. The work would have no interest, and no chance of publication, except for the position of its author; and the phenomenon of the first book about the Supreme Court by a sitting chief justice turns out to have ramifications of its own. Normally the people come to the Court for its decisions, not the other way around. What is "public" about the Court is precisely and only those decisions, not some public relations "image," least of all any electioneering of the sort that is proper to candidates for political office but not to members of the judicial, tenured branch. For the first time, with this book, as with the Bork campaign, judges, far from exercising "judicial restraint" or "deference" to the other branches, are reaching out, through speeches, books, manipulation of the press and television, to develop a political base of power and *a constituency for themselves*. If they succeed in that, they will become at once, with their life tenure and their last word in constitutional matters, not the least but the most dangerous branch.

In this context, a striking thing about Bork's writings is the political content of the speeches he has been making in recent years throughout the country. He has alluded in scornful, populist terms to the "gentrification" of the "judicial culture"—as though the Framers themselves had not been gentry, as though the values he imputes to that "culture" were not precisely the ones the Framers entrusted to the judiciary, and as though the only non-ideological credential he has for the nomination were not that degree of "gentrification" embodied in having taught at Yale. Another striking thing is the fact that the lines of pre-Warren Court cases Rehnquist omits are precisely the ones Bork has described most scornfully and that he would vote to overrule. A third is the degree to which these writings are incompatible with any "image" the public relations campaign for Bork's confirmation has been trying to promote. And the last is the intense "polarization," the attempt to raise again ugly and divisive issues on which the vast majority of citizens has long been reconciled, that this nomination, in defactualized, "centrist" disguise, brings to the nation's highest Court.

There exist, for example, only two occasions on which Bork has written anything even arguably in support of a First Amendment right: a concurrence in a minor libel case in which the plaintiff was a Marxist, the press defendants were Evans and Novak, and Bork's remarks were widely understood to be part of his lobbying effort, through his judicial opinions, for a position on the Court. (Usually these missives were addressed to Attorney General Edwin Meese; in this single instance, Bork addressed instead a vital instrument of that campaign, the press.) The second case was an opinion in which, in direct opposition to the will of Congress, as expressed in legislation vetoed by the president, Bork opposed the fairness doctrine. (In 1969, in *Red Lion* v. *FCC*, the Supreme Court upheld the fairness doctrine; and Justice White, speaking for a unanimous Court, wrote that the FCC's elaborations of the fairness doctrine "enhance rather than abridge freedoms of speech and press.") There also exists a single decision in which Bork appeared to uphold a plaintiff in an environmental claim. On July 28, 1987, outnumbered 11-to-1 on an environmental issue, Bork switched his vote and wrote a unanimous decision *en banc* for the D.C. appellate court. The case was described, in the *Times*, as an example of his "collegiality," his "open-mindedness," his "willingness to change his mind," and, of all things, his "ability to build a consensus."

When "defactualization" has reached these proportions, and when the press, and even some members of the political, legal, and academic establishments, acquiesce or even actively promote it, there exists the mentality, and a real danger, of judicial "coups d'état." The Senate is being asked to confirm and perpetuate for years an ideology that has been decisively rejected, most recently in the 1986 elections, but really since the founding of the Republic. Rehnquist only omits mention of a vast body of constitutional law. Bork goes much further. His tone is far less amiable. And his published work, in contrast to his "image," makes unmistakable his intention to overrule whatever outcomes do not suit him. The choice is inescapably between the nominee and the Constitution. *The Supreme Court: How It Was, How It Is* leaves off in 1954. "The Supreme Court: How It Is, How It's Going to Be," if the nomination is confirmed, will resume around 1922, and the country will be unrecognizable for it. □

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THE BAD AND THE UGLY

Empire
by Gore Vidal

(Random House, 486 pp., $22.50)

Some weeks ago I took my children to West Point. We visited the military museum, and since I was at the time reading Gore Vidal's historical fictions, I was drawn to a glass case containing exhibits from the Philippine war (which is one of the subjects of *Empire*). "The cession of the Philippines to the United States in 1899," the labels explain, "as a result of the Spanish-American War prompted those Filipinos who wanted complete independence to rise against the Americans. The Insurgent Army . . . began hostilities in February, 1899. . . . A total of 120,000 American soldiers participated before the Insurgents were finally suppressed." Pondering this succinct piece of historiography, I went to the souvenir counter, where my son fixed upon what might best be called an equestrian statuette of George Washington. As I asked for it, someone remarked, "You've got to call him Jorge now. Today everything's going Spanish." And just then a stream of visitors came through the turnstiles: a heavily Hispanic group from New York.

The episode was strangely consistent with my reading. There was something more than a little grotesque about walking through a museum of conquest with the admiring descendants of the conquered (there were quite a number of Filipino addresses in the guest book). I wondered if Vidal, who was born at West Point, had had his introduction to American history in this place.

Empire, the latest volume in Vidal's series of historical fictions, is composed with a comic technique made up largely of the grotesque. President McKinley shovels his bulbous stomach out of the way so that he can kneel in prayer for divine guidance on the question of the Philippines. (God, of course, tells him to annex.) Mrs. McKinley's tongue pops out of her mouth as she winks at the secretary of state during an epileptic fit that the secretary at first thinks a lascivious gesture, and that the president conceals by carefully draping a handkerchief over his wife's twitching face. William Randolph Hearst plucks out a Scott Joplin rag on the banjo while plotting to rescue Alfred Dreyfus from Devil's Island in order to get a front-page story at the expense of the French. Del Hay, the secretary's son, falls to his death out of a dormitory window at his Yale reunion, and his betrothed, shrieking in horror, crawls about the sidewalk looking for the opal that has broken off from his ring. Teddy Roosevelt cheats at arm wrestling.

One chuckles, but there is something drearily repetitive about these caricatures. They have, in many cases, only the truth of cliché. As history, the novel is badly truncated. A serious inquiry into the roots of American imperialism must begin at least with the Mexican War, if not with the Louisiana Purchase and the post-colonial westward expansion. Vidal treats the former not at all; the latter he dealt with rather glibly in *Burr: A Novel* (1973). And as fiction *Empire* is tired. The book is one long expression of disgust. Its female lead, the castrating Caroline Sanford, is a rather mechanical combination of Edith Wharton's Undine Spragg and Henry Adams's Mrs. Lightfoot Lee—a sprightly witch who lends the book a certain energy, but who is really just another version of Vidal's frequently portrayed nouveau riche: "I have found," says Charlie Schuyler in *1876* (1976), "that when one starts to think of money, one cannot, finally, think of any other subject. More worries of this sort and I shall be a proper New Yorker . . . no longer alien." *Empire* is largely an extension of that remark. At its center is a foreign-born woman who converts to Americanism, by which Vidal means essentially carnivorous greed.

Vidal's fictions oscillate between revulsion and fascination for such people. He shuffles them into two piles: one for the stupid and reprehensible, the other for the sharp and delectable. The ultimate point of this game is to explode all received platitudes about the visible makers of American history. And so he works into *Empire* some bits of platitudinous decoration—public recitations of Kipling's poem on "the white man's burden," applause lines from Manifest Destiny speeches, dormant missionary instincts strategically revived. He writes very much in the voice of Henry Adams

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(who is his intellectual model) on the American conjunction between historical ignorance and technological genius: "McKinley barely knew of Caesar and Alexander; yet he had conquered almost as much of the earth as either, without once stirring from the ugly national house with its all-important telegraph-machine and no less potent telephone." Justin Kaplan has rightly said that the soundtrack for *Empire* would be selections from John Philip Sousa. Vidal, I think, would want the band to play slightly off key.

Empire is interesting only to the extent that it is a book shadowed by its extraordinary predecessor, *Lincoln* (1984). "The Major," says Secretary Hay, meaning McKinley, "is quite alone, it seems to me, which makes him very like the President." "He is the President," his daughter reminds him. "Hay smiled; pushed a crumb out of his beard. 'When I say the President like that, seriously, I mean only one.' " John Hay shuffles through *Empire*, a dying man, wondering aloud how his idol, Lincoln, would have judged him. At one point, about to take another step toward securing American interests against the waning Spanish hegemony and the kaiser's waxing dreams of lebensraum, he poses the question to his old colleague John Nicolay:

> "The empire we're assembling. Do you think . . . that the Ancient would approve?"
>
> Nico's response was quick. "The Ancient, no. The Tycoon, yes. He was of two minds, always."
>
> "But he *acted* with a single view."
>
> "Yes, but he thought for such a long time *before* he acted. The cautious Ancient and the fierce Tycoon held long debates, and Mr. Lincoln, in the end, arbitrated, and handed down his decision."

This is typical Vidal in one respect: rulers chit-chatting over the fate of supine millions. But in another sense this moment in *Empire* is quite atypical; Vidal embraces here exactly what he everywhere else condemns: the conviction that there was once a better time than the present. "There was never a golden age. There will never be a golden age and it is sheer romance to think we can ever be better than we are now." (The character who says this—it might as well be Vidal himself—is "radiant in his despair.") Under Lincoln, however, the cause of the Republic once had dignity. There is a sense in which the new novel is the working out of the hideous paradox that a great man's unrelenting defense of the Union made it possible for his pygmy successors to play the imperial game.

LINCOLN has been Vidal's one concession that something other than tawdriness and hypocrisy might have been present in American political life. It was composed in a spirit quite unlike anything, except for *Julian* (1964), that Vidal has done. The publication of *Empire*, which marks a reversion to Vidal's customary mode of knowing ridicule, furnishes an occasion to ask why.

There are some clues in the first book in which he tested his American theme, *Washington, D.C.* (1967). As a literary performance it was negligible, the work of a cartoonist playing with stock figures. *Washington, D.C.* reproduced, among other predictable characters, a sinister financier with a Mephistophelian whisper who buys politicians; a Southern senator who, haunted by visions of his father gloriously wounded at Bull Run, tries to repeat the rebel victory by conquering that ultimate Yankee, FDR; and a king-making newspaper magnate (the Blaise Sanford who reappears as a young man in *Empire*) willing to commit his own daughter to an asylum to ensure the fortunes of his disciple, for whom he has carnal as well as political uses.

This was, as Wilfrid Sheed put it when the novel first came out, "Trollope in the world of Allen Drury." Today it reads like the higher *Falcon Crest*. But at the center of the book there was a genuine emotion: disgust for all those in possession of power. The emotion was especially directed at the sexually ruthless political climber about whom a story of heroism in the Pacific is concocted, and who, prudently neutral on Joe McCarthy, rises by the novel's end to the verge of the presidency. With a conspicuous flinch, Vidal later characterized the enterprise of *Washington, D.C.* as "the history of the United States from the Revolution to—well, the beginning of Camelot."

At one point in this barely veiled assault on the Kennedys (whom Vidal had trashed in an essay entitled "The Holy Family," and to whom he felt himself "related" by his mother's having followed Jackie's in the succession of Hugh Auchincloss's wives) he reflects on a parade in 1940 that carried the American president and the English king and queen from Union Station to the White House: "People lined the avenue, staring at the chauffeur-driven cars which contained their masters." The envy this sentence expressed for the principals of the motorcade was matched only by its contempt for the gaping multitude, among whom Vidal was shocked to find himself. If he had once honored the wrong royalty (he had seen in John Kennedy the stirring of "a torpid society . . . by its youthful leader") he made abundant amends in "The Holy Family." *Washington, D.C.* was published in the same year, and amplified the same sentiments: "Between the middle class to which he belonged," says a character in the novel, "and the [upper] class whose existence he often denied, there was plainly a division more significant than any he had suspected: the guilty dreams of the one were suddenly revealed to be the essential acts of the other."

SUCH WAS the beginning of Vidal's full-scale assault on the American ruling class, whose chief defect sometimes seems to be its exclusion of Gore Vidal. From the Dutch gentry to the Gilded-Age "Astorocracy" (he had lived among remnants of both in his Barrytown mansion), they became the subject for which Vidal was destined. His contempt for them matches his longer-established disdain for the common people whom they manipulate, but who did not sustain his energy of invention. His interest in common folk was already petering out in his first novel, *Williwaw* (1946), which mocked its cast of enlisted men for their pathetic competition over string-haired prostitutes and which documented their quarrels, when assigned to mess duty, over whether the cutting edge of the knife should face toward the

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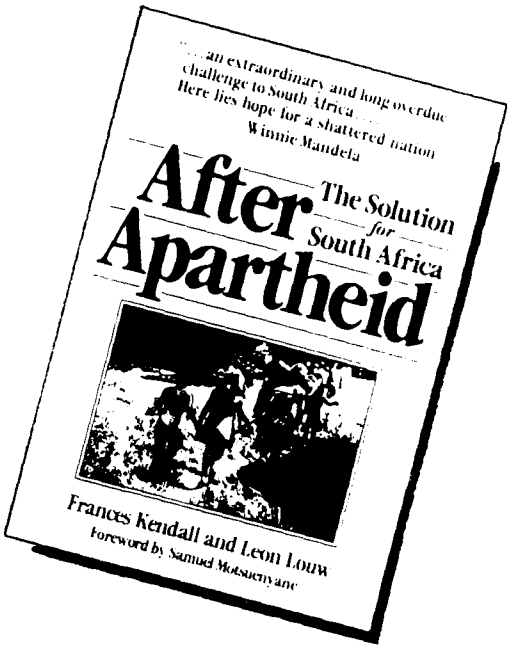
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plate or away. Vidal has always seen the world of ordinary Americans through the eyes of Kreton, his *Visitor from a Small Planet* (1955), who tells the suburban zombies who receive him that "I'm here to intoxicate myself with your primitive minds."

But this intoxication was a passing pleasure. Only power—the acquisition of which requires a certain kind of intelligence—could truly arrest Vidal's attention. And so in *Burr* he contrived a pockmarked and explosive General Washington, readier to send his men into the jaws of the British military machine than to listen to subordinates' suggestions. Jefferson is a randy and crafty liar, about whom Vidal spares no opportunity to remind us that his life of gentility was built on the labor of slaves. Hamilton is a monarchist fop. Only Burr, with whom Vidal identifies as a figure (very like Adams) on the outskirts of power, comes off well: "Of an entire generation of public men, Burr was free of cant; he never moralized unless to demonstrate a paradox."

The trouble with this mode of historical satire is not that it offends against pieties that have some claim to legitimacy, but rather that it is delivered with more spite than wit. Its point is essentially to fill the gallery with famous figures in order to debunk them as rogues; Vidal wants us to laugh again and again as he paints the mustache on Mona Lisa. Apparently the method works. *Empire* is a strong seller; copies are getting bleached and sandy at all the right beaches. Vidal has also become one of the few authors who bridge the gap between upper- and middle-brow readers; *Empire* was excerpted before publication in both *Harper's* and *Cosmopolitan*.

But if we read him as anything more than a gifted purveyor of salable fictions, a further trouble comes into view. Whenever Vidal raises genuine historical questions, he tends to answer them with unrelieved flippancy. Was the outcome of the Revolutionary War really a French victory, with the Continental Army an incidental band of roughnecks? Is it true that "except for a handful of ambitious lawyers, there were very few 'patriots' in 1776"? Is it an accurate assessment of Burr's relation to his evangelical lineage (he was Jonathan Edwards's grandson) that the only reader of Edwards is the madam of the local brothel?

Most such opinions are filtered through an observing consciousness—the newspaperman Charlie Schuyler, or the resentful Burr himself—and cannot, therefore, be fairly attributed to Vidal in every case. Yet he delights in the composite picture into which they converge: a vision of the Revolution in which the people are a duped herd, doing the dirty work for rich men tired of giving up their profits as taxes or bribes to British bureaucrats. As the series of fictions builds its cumulative indignation, such conclusions begin to constitute a coherent version of the American past, a sorry tale of political sleazehounds and sheer greed—sometimes for power, almost always for money, occasionally for status or sex. (One tiresome constant from the Revolution to the cold war is that all politicians love to whore.)

Vidal's next stop, avoiding Lincoln, was the easy target of Grant and his cronies in *1876*. Still, after the frolic of *Burr*, even as he extended and enlarged its tone in *1876*, there were signs of a preparatory change. As the political bandits in the centennial novel—a book encouraged, no doubt, by Watergate—refer to the dimming memory of "Old Ape," we have the sense that Vidal is no longer laughing with them. His portrait of the Democratic candidate, Samuel Tilden, goes briefly somber, as Tilden speaks with conviction on behalf of the increasingly exploited poor, and Vidal's journalist-spokesman, an older Charles Schuyler who has returned from decades in Europe, even wonders if the governor might have the makings of a great national leader. But he does not. Robbed of the presidency by Lincoln's Republican heirs, Tilden is actually no more than a belching invalid, potentially our first "virgin president."

As for the victorious opposition, Hen-

GOING BACK

Gypsies came down my street in summer
and spilled their satin ribbons, gaudy beads,
and yards of scarves and brightly colored

remnants on the boulevard. We swarmed
around, holding our bats and butterfly
nets, drawn to the exotic perfume

of distant countries. Our mothers
slipped out from behind screen doors
and came to stand behind us, arms

around our shoulders, palms of their hands
pressed flat against our chests, drawing
us close against their legs. And in the late

dry breeze of August, the iceman
heaved blocks as cold as the memory
of winter on his tatooed shoulder. The ragman

and the scissors-grinder sang their way
along our street. On other days
the organ-grinder danced with his monkey

and a man with a pony photographed
each of us in front of the houses we left.
All this happened in the warm season

when one sweet day rolled after another
before memory gave us something to hope for.
Now I can't say for sure that the gypsies

came down my street more than once, though
these days I remember waiting for them,
as if at thirty-five, entering every city

a stranger, I could turn my feet to the past
and still find something coming toward me,
something whose shape I know.

There is no art to wandering.

PENELOPE AUSTIN

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ry Adams thought that "the progress of evolution from President Washington to President Grant was alone evidence enough to upset Darwin," and Vidal appears to agree. The country was now being run by simian fools—but unlike Adams, Vidal has no theory of declension (and does not therefore have to contend with the implications of such a theory for his own pride of family descent). Between Washington and Grant there is no distance. The gossip journalism of Leggett and Bryant in *Burr* is not fundamentally different from the yellow journalism of Hearst in *Empire*. Everyone in or near power is always the same.

GIVEN THE convulsive cynicism that produced this historical vision, the phenomenon of *Lincoln* was all the more remarkable. It was stylistically an entirely different work—written with a new tranquillity and intensity, rarely spinning off into the almost hysterical mockery that characterizes its predecessors. Some of the familiar trappings remained: the canny madam who knows her generals and senators better than their wives know them; Lincoln's constipation that leads him to carry on discussions, like LBJ of the famous story, while seated on the pot. But this sort of joke has become dutiful; in fact it serves the purpose of demonstrating the pettiness of the men around Lincoln (who gossip over the question of whether he has syphilis and what its symptoms might be) in comparison to his capacious and undistracted understanding.

Vidal's Lincoln, who grows a tactical beard to add some distinction to his bony lawyer's face, is "the first politician to understand the importance and influence of photography." He is, in such respects, the ancestor of the political marketeers Vidal loves to upbraid. But Lincoln is vastly different because his strategies are in the service of a transcendent purpose: the preservation of the Union. This portrait incorporates an element of the fanatic, as Lincoln's lesser contemporaries, each in thrall to some limited constituency, recognize their helplessness before him—cut off from his superior imagination by "the wall of marble in his mind from which he read his finished texts."

The distance of *Lincoln* from the other volumes in Vidal's series is simply amazing. By far Vidal's commanding book, *Lincoln* was unpredicted by its predecessors and is unchallenged by its successor. It deflected satirical contempt from its center to its periphery, from Lincoln to the figures who surround him—Secretaries Seward and Chase, the bloodsucking bankers, the prancing Union generals, and a variety of office-seekers and functionaries. Early on we meet a "bald young man" who hangs about the edges of political huddles in the Willard Hotel, trying to learn what the new president's plan might be for his eminent father, a loyal Republican congressman from Massachusetts who expects to be named ambassador to the Court of St. James's. The young man, again Henry Adams, is attached to his father as a private secretary, but hopes the prize will be withheld: "I'd rather miss out on London than on Lincoln," he says. Hay asks why. "Well, if he should fail, there will no longer be a country. And since my family believes that we invented the whole thing, I'd certainly like to see what becomes of the remains."

Lincoln, like the passages of the *Education* in which Adams looked back to the Civil War, seems to have marked for Vidal a brief lapse from habitual mordancy into sudden fervor—an imaginative return home to confront the meaning of the Republic. He handles language differently as well. His management of imagery had previously been hesitant or

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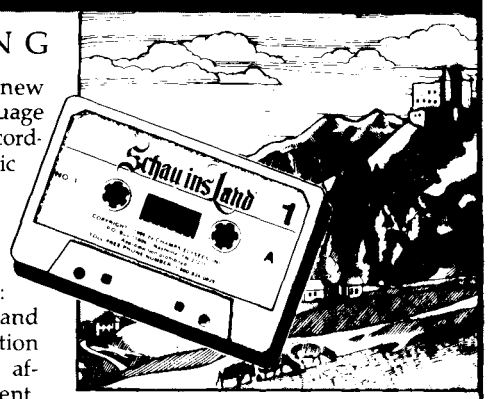

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mannered, but in *Lincoln* he exerts much more control. Earlier tropes tended to be conventional ("Enid," in *Washington, D.C.*, rises from the "tub like a sleek water animal") or to strain for effect (when Governor Tilden fixes his gaze in *1876*, "It was as if two large round gray clams had, of their own accord, opened and looked up at me, as from the half-shell. Were I holding a lemon, I might have squeezed it"); *Lincoln* is free from archness.

The language is worked with a new adroitness and consistency. Metaphor tends to function as an index to the observing consciousness that formulates it. The Midwestern Chase sees Lincoln, dully and provincially, "as cold and dense as the Ohio River in February." Seward, the ward politician from New York, listens to the president explain his decision to suspend habeas corpus, and feels "as if two millennia of law had been casually erased by this peculiar lazy-limbed figure, now twisted in his chair like an ebony German pretzel." Such effects have a new precision, and a purpose beyond authorial self-display. They are part of a technique that reveals Lincoln at a remove—as Melville does the whale—through the limited minds with which he is masterfully in dialogue. Throughout the novel Vidal keeps a respectful distance from the central man, willingly unable to invade him and survey him from within. Lincoln is different because, despite his irreverence and impatience with dogma, he is fundamentally religious. His religion is Union. The imperialists, the abolitionists, the party opportunists—all wither in the heat of his faith.

AND SO the writing in *Lincoln* reaches for sublimity, as in the moving account of the president's visit to the Confederate wounded, or the telling of Willie's death and Mary Todd's encroaching madness. There are passages that make one weep. This novel will, I suspect, maintain a permanent place in American letters. There has been no better prose in the last 50 years than that with which Vidal narrates the streaming of the panicked people down Pennsylvania Avenue to the "soft thud of cannons" from the debacle of the first Bull Run. The portrait of Winfield Scott, in whose face the "worms [were] at work" as he absorbs the meaning of the disaster, is one of many small masterpieces within the masterful whole.

Next to *Lincoln*, Vidal's new novel is a series of miniature lampoons. *Empire* is soundly researched and sporadically entertaining, but it has no center, and its point is easily made: America, spouting democratic ideals, ravages the world in order to satisfy the appetites of its fat-cat owners, who always want more. And it is in this unmasking of America's international behavior as pure, crude imperialism that Vidal lodges his claim to being a man of the left.

Empire does constitute a sort of Marxist history lesson; and it has a certain topicality, with Marcos dreaming of his return to Manila and pro-*contra* stars-and-stripes speeches playing well. "The last best hope of earth," Vidal wrote recently in *Newsweek*, "two trillion dollars in debt, is spinning out of control, and all we can do is stare at a flickering cathode ray tube as Ollie 'answers' questions on TV while the press, resolutely irrelevant as ever, asks politicians if they have committed adultery. From V-J day 1945 to this, has been, my fellow countrymen, a perfect nightmare." (We may imagine Vidal muttering that Henry Adams at least got closer than a TV screen—he lived on Lafayette Park—to observing the events and principal actors of his day.) Vidal lays claim to radical convictions. Yet one may ask how far his critique of American political culture extends beyond tirade into a vision of social transformation.

He can have it, in effect, both ways, because he can tell the *New Left Review* (with a cheerfulness that must have been discomfiting for the interviewer) that he is "a left-wing conservative Puritan." That is as good a phrase as any to describe his hybrid political instincts. In an essay on Dos Passos he confesses to having "enjoyed, even admired, the dottiness of his politics. His political progress from Radical Left to Radical Right seems to me very much in the American grain." This is quite right. The tropes of right and left—fiendish conspirators bilking the people—often run together. And Vidal's own writings offer a reprise of the theme.

THE AMERICAN people remain in his fiction mostly a blur, and when they do come into focus it is not a pretty picture. (The wartime portraits in *Williwaw* are, for example, far less generous than those in Norman Mailer's first novel, *The Naked and the Dead*.) Vidal's fictions are a record of what Brooks Adams (who gives pro-annexation speeches at the beginning of *Empire*) called "the degradation of the democratic dogma." Vidal is not just outraged at the distance between ideals and reality; he is skeptical of the idea of democracy itself. One imagines him walking through the West Point museum with contempt for both the memorialized soldiers and the public that comes there with some vague intent to honor them. And yet he calls himself "a correctionist," which is a fair synonym for liberal: "If something is wrong in society it must be fixed."

Vidal writes that "when Confucius was asked what would be the first thing that he would do if he were to lead the state—his never-to-be-fulfilled dream [Vidal, as every book jacket reminds us, ran well for Congress as a Democrat in Republican Dutchess County]—he said *rectify the language*. This is wise. This is subtle." These terms—"correctionist" and "rectify"—are revealing. Vidal harbors a secret vision of return to a lost condition of proper relations, social and linguistic. There is an ideal order; and therefore there is a certain fastidiousness in Vidal's brand of satire, a kind of hold-the-nose distaste for everyone. His aspiration to "rectify the language" (which is a pretty wild claim, given his usually cavalier diction) belongs, I think, not to the radical native tradition of American writers who have wanted, with Whitman, to see the national language inflamed into an unprecedented and open future—"fann'd by the breath of nature"—but to the reactionary tradition of Fisher Ames, who wrote, in Burr's day, that "of all flattery, the grossest . . . is that the voice of the people is the voice of God."

VIDAL WAS lifted out of such vitriol only once, and only by Lincoln, whom he treats as the indispensable commoner at a time when the Republic almost perished. Since the Civil War, he seems to believe, the problem of American politics has become the problem of consolidated power—too much in the hands of too few, who are insufficiently answerable to the people. But given his dim view of the citizenry, this involves him in a paradox. It locates him rather close to those honorable, if superannuated, figures in his fiction (like Senator Day of *Washington, D.C.*) who cling to the oldest form of American liberalism (now become conservatism), laissez-faire. In its degraded form, this amounts to the belief that the only political crime is to interfere with the legitimate fulfillment of other men's greed. New Deal economic intervention-

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ism thus becomes a form of graft. Vidal feels the insufficiency of such a reactionary political instinct, but he is not wholly free of it.

There is no one writing historical novels (and precious few historians) who can compare with Vidal in his flair for his material. Yet one has the sense that his friction with the subject is rubbing him raw. His considerable achievement has been to see that Lincoln's triumph was to guarantee that there would never be another man like him. After reading through what is now Vidal's quintet, one feels that political greatness cannot coincide with a personal vision of the transcendent purposes of power. But if it can now come only in the form of restraint on the immensely destructive potential of power, that is, among other things, bad news for writers. Self-abnegation is an old theme for fiction, but generally a dull one; and Vidal shows no interest in reversing his procedure and writing American history "from the bottom up." For one thing, he would lose his audience, which surely prefers to read about the misdeeds of the rich and powerful than about the consequences for everyone else.

I suspect that Vidal once thought that the exception to the post-Lincoln rule might have been John Kennedy. He "seemed always to be standing at a certain remove from himself, watching with amusement his own performance. He was an ironist in a profession where the prize usually goes to the apparent cornball. With such a man as chief of state, all things were possible." But Kennedy died too soon; and he had, according to Vidal, already begun to succumb to the delusive thrill of office. Perhaps Vidal will yet find another figure who can lift him out of his bile. But he will probably have to imagine such a person. The historical record has not, I think he believes, provided him with more than one.

ANDREW DELBANCO

Andrew Delbanco is professor of English at Columbia University.

SERIOUS SERIALIST

Dickens' Working Notes for His Novels edited by Harry Stone

(University of Chicago Press, 393 pp., $75)

Charles Dickens published ten of his 15 novels in monthly installments. After settling on a title (a business that sometimes took weeks) he began by writing enough to fill 32 printed pages. This material, along with two illustrative plates and some advertising, was then bound as a pamphlet and sold for a shilling at bookstores, newsstands, and stationers'. A month later, when another 32 pages had been written, illustrated, and printed, a new installment appeared—and so on for 20 installments over 19 months (the final installment was a double number, and cost two shillings). The other five novels were produced according to the same system—except that the installments appeared every week rather than every month, in magazines edited by Dickens.

The lag between the completion of the manuscript and the appearance of the printed part was only a few days, and though he usually tried to give himself a running start by writing three or four parts before the first appeared, Dickens invariably ended up, at some point in the progress of his novel, facing a regular monthly or weekly deadline. He once ran out of supplies while working on a book and went out to a stationery store, where he found himself standing in line behind a woman who asked if the latest installment of the new Dickens novel was available—the installment Dickens was waiting to buy the paper to write.

No doubt the pressure of a deadline had the proverbial effect of concentrating the mind and spurring the imagination; but the main idea behind the serial method of publication was the idea of making money. Serial publishing entailed certain economies: it kept the publishing house's printing operation provided with regular business, saving the expense of a fresh start-up for every new, one-time job; it made financing more manageable, since profits from the sale of one part could be used to underwrite the production of the next. It meant that every novel could be sold twice, once in parts and once as a finished book. And by making novels available to people who could afford to part with a shilling a month for 20 months but not with 31 shillings sixpence all at once (the usual price for a three-volume novel), serial publishing opened up a new market for fiction.

It was a market discovered—though inadvertently—by Dickens himself. His first novel, *Pickwick Papers* (1836-37), was conceived by its publishers as a kind of serial comic book: the illustrations were intended to be the main selling point, and Dickens (age 24) was hired to provide commentary. But when the illustrator, Robert Seymour, committed suicide after the second part, the story took over (with a new artist taking instructions from Dickens); and when the character of Sam Weller was introduced in the fourth part, sales, which had been feeble, took off. So did the serial as a publishing mechanism for middle-class fiction. *Pickwick Papers* eventually sold 40,000 copies a part. *The Old Curiosity Shop* (1840-41) sold 100,000 copies a part. And the circulation of Dickens's *All the Year Round*, the magazine in which *Great Expectations* (1860-61) was serialized, reached 300,000. A single statistic gives a rough measure of the scope of this phenomenon: no novel by Walter Scott, a writer of comparable stature in his day, sold more than 13,000 copies in its first edition.

Putting the novel before the public in installments had another advantage: it provided a running market survey of the product even as it was being manufactured. Sales soar when Sam Weller appears: Sam Weller becomes a leading man. Sales flag in the middle of *Martin Chuzzlewit* (1843-44): Martin takes an unexpected trip to America. Usually the tuning was a little finer. In *David Copperfield* (1849-50) Dickens created a character, a dwarf meant to be unsympathetic, called Miss Mowcher. While the novel was still in progress, he received a letter from a woman who lived in his neighborhood and who claimed—correctly, in fact—to be Miss Mowcher's original ("I have suffered long and much from my personal deformities," she complained, "but never before at the hands of a Man so highly gifted as Charles Dickens"). Dickens responded by promising to

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transform Miss Mowcher's character in future parts—to "oblige the Reader to hold it in a pleasant remembrance." Which he did.

But keeping the public in a state of anxious interest over the course of weeks or months meant managing the story in a way peculiar to the serial form. Each part had to be designed to keep alive the memory of minor characters and subplots the reader might lose track of between installments; each part required a balance of humors, not all comedy, not all satire; each part had to achieve a completeness that was pleasing but not quite satisfying, a sense that some of its episodes had been tied off but that threads of interest had been left dangling for future chapters. Dickens was a master of these techniques; but his success with his readership made for a difficult critical afterlife. For the aesthetic form that a Dickens novel most closely resembles is, of course, the prime-time soap opera.

It was one of the tenets of the modernist faith—and though we regard it with skepticism today, we are still under its influence—that commercial success is a presumption against artistic integrity. If the artist has his eye on the best-seller list, how can he have his mind on "structure"? It therefore became the task of Dickens's 20th-century defenders, starting with Edmund Wilson in *The Wound and the Bow* (1941), to persuade doubters that in spite of the circumstances in which they were composed and in spite of the popular success they enjoyed and continued to enjoy, Dickens's novels were serious and deliberate works of art—which is to say, that they would repay the kind of close analysis that had been developed to appreciate *Ulysses* and *The Waste Land* and *To the Lighthouse*. A glance at an index of scholarly publications will show that the battle long ago turned into a rout: Dickens criticism is one of the great industries of English studies, right up there with the Joyce and the Eliot and the Woolf industries.

Still, criticism would have no reason for being if there were no error. Harry Stone's edition of the complete extant notes for the novels from *The Old Curiosity Shop* to *The Mystery of Edwin Drood* (1870) has a scholarly purpose, which it meets magnificently: to provide a facsimile and transcription of every page of Dickens's notes. But it has a critical purpose as well: to convince us once again that, as Stone puts it, "Dickens was a consummate artist and totally dedicated to his craft."

The argument is that since we now have before us the evidence that Dickens kept track of his subplots, tried out variations on names for his characters, jotted down reminders about tone and pacing, noted the recurrence of themes from earlier parts, and generally maintained a scrupulous awareness of the relation of part to part and of part to novelistic whole, we cannot dismiss him as a popular entertainer who relied on his gift for invention to carry him through the first 18 months of his story and on his talent for melodrama to pull the threads spectacularly together in the 19th. The "effort to imbue every chink and interstice of his design with a carefully planned, slowly emerging purpose," says Stone, "testifies to his belief in the profound seriousness of literature and to his commitment to its demands."

DRAWING BY JACK COUGHLIN FOR THE NEW REPUBLIC

Most of the notes—one page per part, a checklist of characters and plots on the left-hand side, a chapter-by-chapter outline of incidents on the right—are bound with the manuscripts of the novels and housed in the Victoria and Albert Museum in London. They have been referred to by scholars for years, beginning most notably with John Butt and Kathleen Tillotson's study of *Dickens at Work* (1957). It is good to have them generally available in this new volume, for the reason that it is good to have everything Dickens wrote generally available. They could not be more handsomely reproduced or more painstakingly transcribed; and critics looking for a way to get a handle on a particular interpretive crux may indeed find useful clues in a note Dickens wrote to himself or a few words he crossed out.

But surely the best evidence—and the only evidence that really matters—that Dickens was a genuine literary artist is the novels; and surely those who persist in believing that the novels lack artistry of form or substance will not be converted by learning that before Dickens wrote a part, he made an outline. Given the story line, you or I could have written the notes: there is scarcely a finished sentence in them. Only Dickens could have written the novels. More to the point, why should the test for a commitment to "the profound seriousness of literature" be complexity and consistency of design? What sense does it make to suggest that after reading a Dickens novel we might decide that it is not a serious work of art, but that after studying that novel's composition we might change our minds and decide that it is? There is something wrong, in short, with the terms in which the debate over whether Dickens was a serious artist is usually conducted.

Dickens's nickname for himself was The Inimitable. He was not a vainglorious man, in spite of being one of the most lionized writers of a century that took its literary lionizing extremely seri-

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ously. But he had, as the nickname suggests, a fierce sense of his own worth—compensation, perhaps, for the famous childhood trauma of the blacking factory. And he had a kind of literary courage that tends to be obscured by the facts of his popularity and the commercial circumstances of his writing, and that tends to be missed entirely in arguments over the formal coherence or incoherence of his books.

THE COURAGE expresses itself in two ways. There is, first, the serial method itself—"that social form of publication," as Dickens called it. The strongest impression these working notes leave is not of the attention Dickens paid to craft, but of the extent to which he relied on the sheer power of invention to drive his novel ahead, to produce a fresh chunk of story each month from just a few scribbled cues. Someone once said of Shakespeare that if his plays had not been easy to write they would have been impossible to write. The remark smacks a little of the cult of genius; but it is true that it is harder to imagine Shakespeare or Dickens working out in advance the details of imagery and characterization, the alignment of plots and themes in their works, than it is to imagine them letting each new scene or chapter set the terms for the creation of the next.

Dickens wrote his novels in public. His way each month of meeting the conditions set by the previous months' work was a performance without a net—for there was no hope of going back and changing the expectations he himself had raised. That he should have needed to remind himself of his inimitability, as a kind of tonic, a trick of self-motivation, is not surprising. If we have the sense from these notes that Dickens used the pressures of public reception and commercial necessity to generate his energies at each new stage of the work, that does not mean that there was no conscious deliberation involved. It only means that there are different sorts of deliberation, and that performance is as much work as calculation is. *Pickwick Papers*, as Steven Marcus once demonstrated in an essay called "Language into Structure," was essentially a brilliant and extended improvisation, creating its own compositional logic as it progressed—an enterprise made more remarkable, not less, by the active role played in it by public response. And if *Pickwick*, the most desultory of Dickens's books, is not art, what is?

In January 1837, when *Pickwick* still had 11 months to run, Dickens began the serial publication of *Oliver Twist*. This, too, took a kind of courage. Here was a young man fantastically successful as the author of a comic pastoral, a story set in the fading world of preindustrial Britain, now publishing a novel that begins with an orphan in a workhouse and climaxes with a public execution, the murder of a London prostitute, and the accidental, self-inflicted hanging of a man pursued by a mob. It was not only a test of himself in a new genre (Dickens referred to *Oliver Twist* as his first novel); it was also a test—posed by someone who had a horror of poverty, and who had the path to riches clearly before him—of the audience that had made him famous.

Everything Dickens wrote seems so Dickensian that it is easy to forget how little he allowed past successes to dictate the form of new projects, and how innovative a stylist he was. (In the case of the novels, that is; the annual Christmas stories, obviously, are another matter.) After three hugely popular novels of modern life, he wrote *Barnaby Rudge* (1841), a historical novel. After *Dombey and Son* (1846-48), the first of his multilayered condition-of-England novels, he wrote *David Copperfield* (1849-50), an elegiac Bildungsroman. He used two narrators in *Bleak House* (1852-53), one first-person and retrospective, the other present tense and omniscient—a device apparently never used before in the history of the novel (and completely unremarked upon by contemporary reviewers). His next novel, *Hard Times* (1854), was social criticism in the language of a fairy tale. And after *Our Mutual Friend* (1864-65), a book whose ambition is simply the representation of London, Dickens began a mystery story, the unfinished *Edwin Drood*. He reconceived his form continually—like, for instance, Picasso. And, like Picasso, he nevertheless managed to put his signature unmistakably on everything he produced. That seems one way of calling him an artist.

THE DEBATE over whether Dickens was an artist or not is like the debate over whether he was a realist or not. Every effort to settle the matter by formalist criteria—by pointing to the literary architectonics, the figural strategies, the presence or absence of closure, and so forth—ends up missing the point. Part of the reason has to do with the circularity of appeals to form. The lesson of the old formalism, the formalism of the New Criticism and of stylistics, was that if the critic was so disposed, everything in a given piece of writing could be shown to harmonize with everything else. The lesson of the new formalism, the formalism of deconstruction and of the new rhetoricians, is that everything in a given piece of writing can be shown to contradict everything else. Art is defined in either case as the set of objects most responsive to the methodology applied. But the most revealing feature of the switch in formalist techniques from the generally New Critical to the generally deconstructionist is that the canon has scarcely changed at all: the texts that, regarded with organicism as the standard, once held together best turn out to be the texts that, regarded with indeterminacy as the standard, now fall apart best.

But formalisms have another problem. They effectively separate the experience of art from the analysis of it. They therefore cannot explain why anyone but literary critics reads literature. To say that a thing is art if we experience it as art sounds like a hopelessly impressionistic definition—exactly the sort of fuzzy subjectivism 20th-century formalism was developed to displace. But if it forces criticism to present its judgments in language continuous with other people's experience, it's not such a bad test. It means that if we want to claim Dickens as a realist, we will need to appeal to the experience of other novels, and to the experience of experience itself. And it means that if we want to claim Dickens as an artist, we will tend to feel that the spirit in which he faced the conditions of his work is at least as important as the degree to which his books make nice patterns for critics.

LOUIS MENAND

CORRESPONDENCE, *from page 6*

larist. Since once every seven years the land is allowed to rest, the people rest as well. In ancient times the entire Jewish nation enjoyed what we call a sabbatical—an opportunity to recharge intellectual and spiritual batteries. No other people ever attempted so meaningful a national institution.

RABBI PINCHAS STOLPER
New York, New York

Martin Peretz replies:
Let those who want to follow the injunction of *Shmitta* do so. Let those who don't not.

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WASHINGTON DIARIST

Camera Hogs

I'VE TRIED TO figure out where the congressional Iranamok committee went wrong. It did go wrong, you know. My conclusion is that the committee was just too taken with itself. From the beginning, it saw its role as historic. Well, the Iran-*contra* scandal is historic, and whatever special prosecutor Lawrence Walsh does will be. The committee merely provided a warm-weather interlude of televised hearings that advanced the case not at all. The members of the committee didn't work very hard. They left most of the questioning of witnesses to hired counsel. But they were clearly out for personal gain, appearing almost nightly on one TV show or another. (Members of the Senate Watergate committee, by the way, worked harder and didn't rush off to nightly TV interviews.) But the committee's biggest failure was in not sensing how it was coming across to the country in the live hearings. Both the members and the staff seemed mean, prosecutorial, petty, and unfair. I guess if you think you're involved in a historic undertaking, you don't worry about such trifles, or even notice them. The committee made it easy for Ollie North to emerge as a popular underdog. Chairman Daniel Inouye unhesitatingly overruled 22 of 22 objections raised by North's lawyer. Sustaining just one might have softened his hanging-judge image. Inouye and others also violated a cardinal rule of politics and journalism: you don't hype a big story. They insisted on exaggerating the evidence. North's lawyer showed up the committee by balking at having North questioned in private before his public appearance. The purpose of these private sessions, a regular practice in congressional investigations, is to help the committee look good in public. It can formulate its questions while already knowing the answers. Oh, yes, the private chats make a big difference, giving witnesses an extra disadvantage. The only witness who completely overpowered the committee, including the overrated counsel Arthur Liman, was the one who wasn't questioned extensively beforehand in private: Ollie North.

ONE OF THE big movies of the summer, *The Untouchables*, has a cult following among conservatives. I think I know why. The movie is about a high-minded official who winds up cutting corners to get a dirty job done. In a scene near the end, Eliot Ness admits to a judge that he's violated the very rules he'd sworn to uphold in order to nail Al Capone. Ness didn't apologize for it. Now, think for a second about a more recent government official who did the same thing. That's right, Ollie North. Ness couldn't do his work successfully if he had to work with regulars on the Chicago police force. So he formed a small unit independent of the force. North thought he couldn't risk dooming his operations by telling Congress about them. So he didn't. Ness had a wife and child who were threatened by the mob. North had his wife and kids in Great Falls, Virginia, who needed a security fence for protection against Abu Nidal. And so on. The analogy is really quite striking, though I suppose it wasn't something the movie's producers had in mind (unless they're clairvoyant). Still, this is the only movie that Robert Novak and Joseph Sobran have ever mentioned to me, much less recommended.

IF IT WEREN'T FOR the Iranamok hearings, I doubt that *Newsweek* would have published a "My Turn" column by Jonda McFarlane in its August 17 issue. She is the wife of Robert McFarlane, the former national security adviser at the Reagan White House and twice a witness at the hearings. Mrs. McFarlane is the champion of a cause that, so far as I know, has only one other current advocate: me. The cause is early marriage. My view is that the earlier people get married, the happier they are. Waiting until their 30s only subjects them to the temptations of the swinging singles lifestyle, as barren a way to spend your 20s as I can imagine. In my case, I can only imagine, since I was married for most of my 20s. Anyway, being a parent—I avoid the awful neologism "parenting"—is more fun when you're young. Most people in their 20s are in lowly positions in their occupations and thus have little responsibility and a short work week. They have plenty of time and energy for infants and toddlers. When you're older and higher up the ladder at work, you're too distracted and stressed out to fuss lovingly over a child. OK, you can give your child "quality time." But children need "quantity time" from their parents, large quantities of undisturbed attention. Mrs. McFarlane was good on all this, but she let me down at one point. She said she wasn't advocating marriage for "those just out of college." I am.

FADS GET out of hand fast in this country. One is frequent flier programs. Folks I know get their friends and relatives to fly in their name in order to rack up more bonus mileage. What's in it for the friends and relatives, I don't know. Maybe as a gesture of appreciation they are given some of the free flights that are prizes in the programs, though they'd have to take the flights using a name not their own. The bottom line is that people are flying under false names, and problems result. Northwest Airlines was slow in releasing the passenger list from Flight 255, which crashed in Detroit in August, partly because it wasn't sure that all the names it had were correct. Some, it feared, were the names of zealous frequent fliers who had friends flying for them. Another fad is the drawing of a smiling face beside your signature. I find this the equivalent of someone saying, "I'm such a nice person." Democratic Representative Patricia Schroeder introduced the smiling face into politics, and now it has become bipartisan. Republican Senator Rudy Boschwitz of Minnesota has adopted the habit. There's only way to stop this fad. Vote these people out of office.

A MISTAKE the press continues to make is confusing a narrow interest group with a real group. The reporters covering the National Women's Political Caucus in August wrote that presidential candidates came to try out their pitch for winning the women's vote in 1988. Wrong. They were wooing feminists, a smaller group that doesn't necessarily represent the political yearnings of all women. Remember 1984. Feminists fervently backed the Mondale-Ferraro ticket. Women voted overwhelmingly for Reagan-Bush. You could almost draw a rule from this.

F. B.

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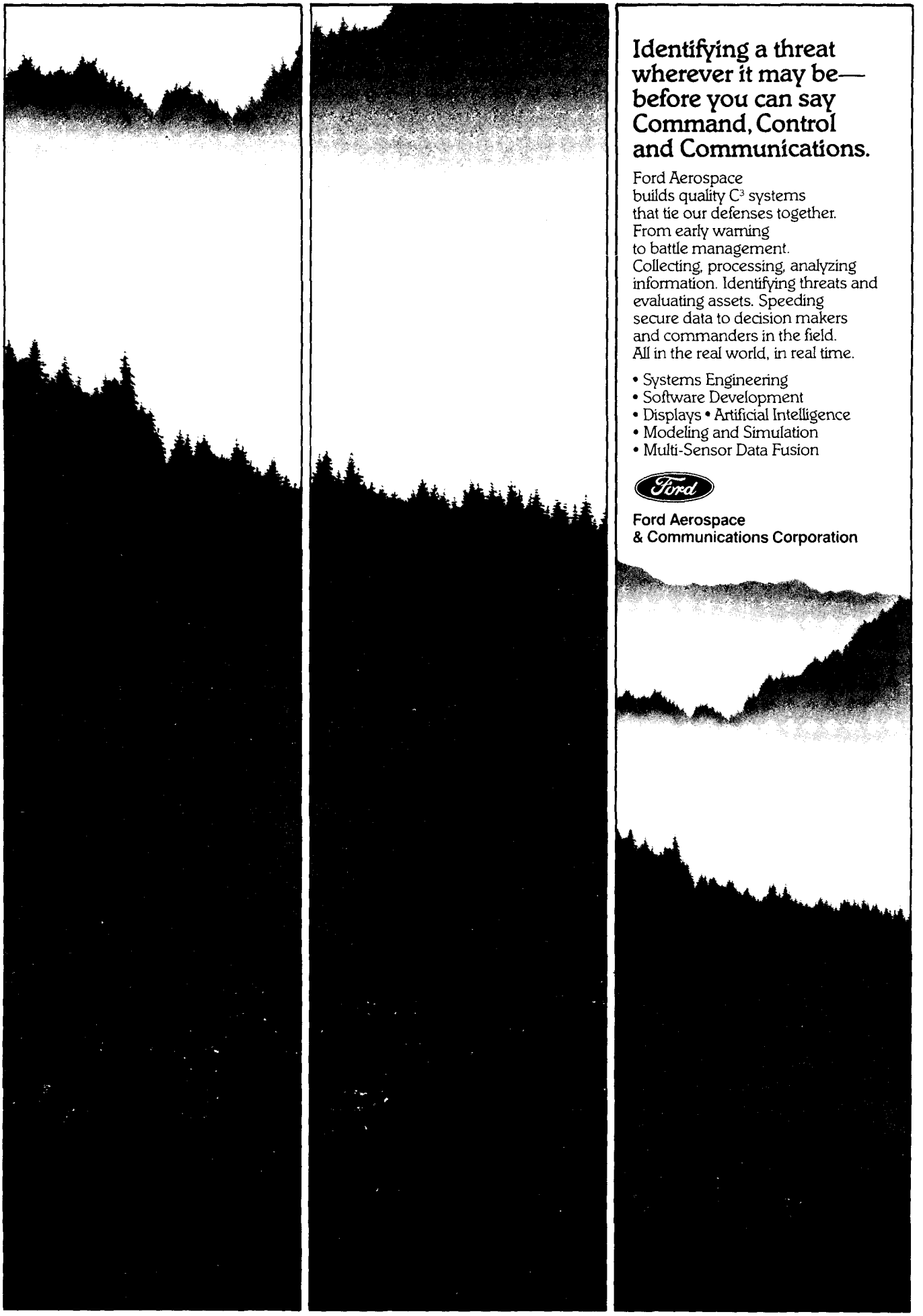

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